

No. 94-270

Supreme Court, U.S.  
FILED

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**In the Supreme Court of the United States**

OCTOBER TERM, 1994

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UNITED STATES OF AMERICA, PETITIONER

v.

ROBERT P. AGUILAR

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ON WRIT OF CERTIORARI TO THE  
UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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**JOINT APPENDIX**

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**PETITION FOR WRIT OF CERTIORARI**  
**FILED: AUGUST 11, 1994**  
**CERTIORARI GRANTED: NOVEMBER 28, 1994**

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\* The opinions of the *en banc* court of appeals and of the panel of the court of appeals are printed in the appendix to the petition for a writ of certiorari and have not been reproduced here.

UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

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No. 90-10597

UNITED STATES OF AMERICA

v.

ROBERT P. AGUILAR

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RELEVANT DOCKET ENTRIES

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Date	Proceedings
12/12/94	Argued and submitted to Proctor R. Hug, Cynthia H. Hall & Diarmuid F. O'Scannlain.
5/12/93	Filed Opinion: Affirmed in part, reversed in part, vacated in part and remanded (Terminated on the Merits after Oral Hearing; Affirmed (in part) and Reversed (in part); Written, Signed, Published. Proctor R. Hug, dissenting; Cynthia H. Hall, author; Diarmuid F. O'Scannlain, concurring.) Filed and entered judgment.
5/20/93	Filed order (Proctor R. Hug, Cynthia H. Hall, Diarmuid F. O'Scannlain): A sua sponte request for an en banc vote having been made, the parties shall file simultaneous briefs setting forth their respective positions on whether this case should be reheard en banc. The briefs shall not exceed 15 pgs. Forty copies shall be filed with the Court in S.F. within 21 days of the date of this order.

8/9/93 Filed order and amended opinion (Judges Proctor R. Hug, dissenting, Cynthia H. Hall, author, Diarmuid F. O'Scannlain, concurring).

9/2/93 Filed order (J. C. Wallace): Upon the vote of a majority of nonrecused regular active judges of this court, it is ordered that this case be reheard by the en banc court pursuant to Circuit Rule 35-3.

9/17/93 Filed order (J. C. Wallace): . . . Within 14 days from the date of this order, the parties are directed to file brief, not to exceed 15 pgs., on the question of the applicability of the wiretap statute to the facts of this case, concentrating on whether the statu[te] criminalizes disclosure of an expired wiretap authorization.

11/18/93 Argued and submitted to J. C. Wallace, Proctor R. Hug, Thomas Tang, Jerome Farris, Harry Pregerson, William A. Norris, Stephen R. Reinhardt, Melvin Brunetti, Alex Kozinski, Edward Leavy, Ferdinand F. Fernandez.

12/10/93 Filed order (J. C. Wallace, Proctor R. Hug, Thomas Tang, Jerome Farris, Harry Pregerson, William A. Norris, Stephen R. Reinhardt, Melvin Brunetti, Alex Kozinski, Edward Leavy, Ferdinand F. Fernandez): The panel opinion in this case, filed May 12, 1993, amended on Aug. 09, 1993, and reported at 994 F.2d 609, is withdrawn.

4/19/94 Filed opinion: Reversed (Terminated on the Merits after Oral Hearing; Reversed; Written, Signed, Published. Heard en banc; J. C. Wallace, dissenting; Proctor R. Hug, author; Thomas Tang; Jerome Farris; Harry Pregerson; William A. Norris; Stephen R. Reinhardt; Melvin Brunetti; Alex Kozinski; Edward Leavy; Ferdinand F. Fernandez, dissenting.)

UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

No. CR-89-00365-01

UNITED STATES OF AMERICA

v.

ROBERT P. AGUILAR

RELEVANT DOCKET ENTRIES

Date	No.	Proceedings
06/13/89	1	Filed indictment.
02/08/09	256	Trial begins—jury (Counts 1-8).
03/19/90	303	Trial ends—jury (Counts 1-8). Jury verdict of not guilty (Count 3). Order mistrial declared (Counts 1-2, 4-8).
05/01/90	332	Government's Motion to Dismiss Counts II and V.
08/06/90	438	Trial begins—jury (Counts 1, 4, 6, 7-8).
08/22/90	461	Jury verdict of guilty (Counts 6, 8).
	461	Jury verdict of not guilty (Counts 1, 4, 7).
11/21/90	489	Filed notice of appeal (Counts 6, 8) (Appl #3) (Appeal from the final judgment entered on 11/15/90, sentence and order denying deft's motion for a new trial or, in the alternative, motion for judgment of acquittal both entered on 11/1/90, and all motions made by deft's counsel and denied prior to and during trial).



12/31/90 494

Filed notice of appeal (Counts 6, 8) (Appl #4) (United States Appeal pursuant to 18:3742(b) from the district court order imposed on 11/1/90).

The following is a substantially verbatim transcript of a portion of a consensually recorded conversation which occurred on May 17, 1988, beginning at approximately noon, in San Jose, California.

\* \* \*

EDWARD

SOLOMON: What do you say Bob. How's everything going?

ROBERT

AGUILAR: Well too much work and not enough pay. (UI).

\* \* \*

SOLOMON: Anyway I umm, you know, the reason I called you, okay? You know, I called you.

AGUILAR: You what?

SOLOMON: I called you to meet you here, okay?

AGUILAR: Uh hum.

SOLOMON: Because, well, things have been happening and I don't know what the hell's goin' on. Ah I had a . . .

AGUILAR: Let me tell you . . . let me tell you this and then you can go on from there.

WAITER: Yes?

AGUILAR: Yes I'm waitin' for you to say something.

WAITER: (laughs) Oh I thought you . . . you said you were gonna tell me something.

AGUILAR: You were gettin' prepared to make a speech so I though I'd listen to you.

WAITER: Okay I'll make a speech of the specials. Today's specials we have a sauted red snapper almonidine. We have a roast leg of lamb in a rosemary sauce. We have a king salmon croissant served with a bernaise sauce, avocado, and jack cheese.

AGUILAR: I'd like the roast leg of lamb.

WAITER: Lamb? Leg of lamb?

SOLOMON: Well just give me the um.

[2]

AGUILAR: They have a good salad there.

SOLOMON: Well . . .

AGUILAR: A spinach salad with breast of chicken.

WAITER: Excellent.

AGUILAR: That's ah okay fine. And I'll have a cup of decaf when you ah bring it here? Okay?

SOLOMON: Now, here ya go.

WAITER: Now you have a choice. New potatoes, white rice, fettuccine Alfredo.

AGUILAR: Fettuccine Alfredo.

WAITER: Okay. And choice of soup or salad?

AGUILAR: What's your soup?

WAITER: Garden vegetable beef.

AGUILAR: Ah let me have the salad please. House dressing. I think I told you the story that . . . that Abe came to visit me.

SOLOMON: Yeah.

AGUILAR: And the F.B.I. took pictures and they came to see me?

SOLOMON: They come to see you?

AGUILAR: Yeah oh yeah they came . . . showed me the pictures.

SOLOMON: Oh I didn't know they came to see you because I heard this from somebody else.

AGUILAR: No they came to . . .

SOLOMON: Then I'm next.

AGUILAR: . . . they came to see me and ah they asked me if I knew Abraham ah. (U) what's his?

SOLOMON: Chapman.

[3]

AGUILAR: Chapman. Well I said no. I don't know anybody by that name. He said well he's been visiting . . . he's visited you at your house. I said, that's Abraham, I said oh Abie. I said I didn't even know his last name. And I told 'em yeah he's the . . . he's the father-in-law . . . former father-in-law of one of my brothers. Family. They asked me if I had if I had intervened with any judge on his case. No I've never intervened in his case at all. But I also knew they were wire tapping him. One day I was in San Francisco and I had lunch with Peckham and he arrived fifteen minutes late. And he says oh shit he said the F.B.I.'s up there getting (U) getting a ah ah wire tap order on Abie the killer. I said Abie the killer. (laughs).

SOLOMON: Abie the killer. (laughs)

AGUILAR: Yes he says he's the last living member of Murder Incorporated. I said what? But anyway go ahead. Now that's all I wanna tell you. But they did they went out there and I saw them and I knew that and I told him.

SOLOMON: I know. You told me ah when you called. Remember, I called you? Ah okay. We had an investigator . . . an ex-F.B.I. guy on this new case here . . .

AGUILAR: Uh huh.

SOLOMON: . . . and he gave me ah . . . he didn't call me he came to see because ah, you know, my phones might be tapped.

AGUILAR: Uh hum.

SOLOMON: And he came to see me and he related that from his sources, you know, his old connections that ah . . .

AGUILAR: Uh hum.

SOLOMON: . . . that ah ah I guess somehow they knew he was on . . . did some work on the case and that . . . that ah, you know, he Abe, you know, Abe and that incident with you and Abe and that they . . .

AGUILAR: They connected that?

[4]

SOLOMON: . . . they talked . . . they talked . . . they talked to . . . they talked to you and, you know, and he says watch out I'm . . . he thinks I'm next. Okay?

AGUILAR: This F.B.I. guy, is he the guy who's working on this case?

SOLOMON: Well he . . . he worked on the case. He's he's not . . . he's an ex.

AGUILAR: Mmm. Okay.

SOLOMON: You know?

AGUILAR: Well the reason why they tied me into Abe is because they were following Abe and they caught him in my house. But that's only in connection with his case.

SOLOMON: Yeah well I . . .

AGUILAR: They never asked me anything about . . .

SOLOMON: Um I've been told that I'm next. Okay? I . . . I . . .

AGUILAR: Well do you represent him in any way?

SOLOMON: No. I only one that I represent is . . . and he hangs out there day and night.

AGUILAR: Yes.

SOLOMON: Okay?

AGUILAR: But he . . . he's . . . you mean he's over at that guy's place all the time?

SOLOMON: Oh every minute.

AGUILAR: Well what's the story? Why is he there all the time?

SOLOMON: I, I, I, I don't know. I don't even go over there, you know? I told you I got pushed into this thing . . .

AGUILAR: They never asked me about you. They never mentioned anything about you at all.

[5]

SOLOMON: Okay. They never mentioned me in any way?

AGUILAR: They never mentioned anything about Tham at all.

SOLOMON: Okay.

AGUILAR: No. Rudy Tham.



SOLOMON: Okay. The only thing is that he, you know, what he says . . . he explained to me is they know Abe is with Rudy, you know, Abe comes to see you. I'm on the case with Rudy and now, you know, the guy . . .

AGUILAR: What did he say about why Rudy comes to see me?

SOLOMON: Rudy? Not Rudy?

AGUILAR: I mean why Abe comes to see me?

SOLOMON: I . . . I really don't know but they (UI).

AGUILAR: All right here's what I told 'em and it's true. The time they saw him he came over and gave me some figadatis that his wife had cooked.

SOLOMON: What's a figadati?

AGUILAR: They're . . . they're Italian cookies. Fig cookies.

SOLOMON: Oh okay okay okay.

AGUILAR: She gives 'em to me every year.

SOLOMON: Hmm hmm.

AGUILAR: The other time he came to see me . . . which they may have followed him . . . he came to bring me some Italian sausage which his wife always sends to me. And that's the whole (UI) I says he's only in there about ten minutes. I says he comes in leaves the stuff off and I . . . I pour him a glass of brandy . . .

SOLOMON: Uh hum.

AGUILAR: . . . and he leaves.

[6]

SOLOMON: Right. The the

AGUILAR: They . . . they know he's only in there ten minutes.

SOLOMON: Okay the only thing is, you know, I don't know your relationship, you know, with Abe, you know, other than he's . . . was ah your sister's . . . your brother's ah whatever . . .

AGUILAR: He's my brother's former father-in-law.

SOLOMON: Father . . .

AGUILAR: But I've only seen the man six or seven times in my life.

SOLOMON: Yeah. Yeah but I don't . . . I don't know, you know, with ah . . . ah . . .

WAITER: Would you like pepper?

AGUILAR: Yeah aaa,

SOLOMON: . . . 'cause, you know. I'm ah . . . Bobby, you know, I'm worried. You know, ah I don't want ah . . . but, you know, that's why I'm ah here. And he told, you know, they told me ah that ah . . . the guy told me he says, you know, they're coming to you next and ah, you know, and ah and, you know, the . . . the question is ah why ah Weigel, ah you know, got out of the case? And I don't know, you know?

AGUILAR: I don't know.

SOLOMON: Huh?

AGUILAR: I certainly don't know. He just got lazy I think.

SOLOMON: Well yeah I don't know. You, you know, because ah . . .

AGUILAR: Why don't they ask Weigel? (laughs)

SOLOMON: The only thing is, you know . . .

AGUILAR: And if they came to ask me I'd tell 'em to go fuck themselves.

[7]

SOLOMON: Well the only problem is . . . I . . . I know . . . I know you made some inquiries you know, on behalf to find out where it's at . . .

AGUILAR: (UI). Yeah I . . . I did more than that.

SOLOMON: Huh?

AGUILAR: I did more than that.

SOLOMON: Well I . . . I don't know what you did, you know, but I'm ah concerned . . .

AGUILAR: What I did I did on my own. It had nothing to do with you.

SOLOMON: Okay because I'm I don't know what you did with 'em ah but all of a sudden the guy, you know, ah disqualifies himself and then . . .

AGUILAR: I don't think it had anything to do with it.

SOLOMON: Well . . .

AGUILAR: I think he just didn't want to be bothered with it.

SOLOMON: Because I'm, you know, I'm concerned, you know, when they come what the fuck do I tell them?

AGUILAR: Do what?

SOLOMON: What the hell do I tell them?

AGUILAR: What do you tell 'em, what're they gonna ask you?

SOLOMON: Well I don't know. If they ask me, you know, our relationship or whatever?

AGUILAR: Oh. You and I went to law school together. We didn't . . . I had nothing to do with you regarding this case. Nothing.

SOLOMON: Well the only problem is ah ah I . . . my fear is, you know, Linda doesn't work for me anymore, you know, but . . .

AGUILAR: Who doesn't work for you?

SOLOMON: Linda. You know?

[8]

AGUILAR: Who's Linda, oh that gal yeah.

SOLOMON: Yeah. You know, she saw you and you gave us procedure, you know, things to . . . how to put procedure-wise, you know?

AGUILAR: Uh hum.

SOLOMON: Yeah you also gave us the ah what do you call . . . the instructions for my ah wrongful discharge. But that's what I'm afraid, you know, they're gonna ask me what's my connections with you . . .

AGUILAR: Why would they ask you anything about me?

SOLOMON: Well the . . . the guy told me what they're . . . they're lookin' into, okay, that they think ah . . .

AGUILAR: There's a connection?

SOLOMON: . . . there's some connection they think with . . . there's some connection why Weigel . . . because, you know, maybe because Abie's always there with ah with Rudy ah I don't know. But he um they see one another regularly, you know? And that's my problem. I'm, you know, I'm scared shitless.



AGUILAR: I don't think . . . why would you be scared, 'cause they're gonna tie you in with me?

SOLOMON: Right. Well whatever they tie in, you know, ah, you know, who wants to be on the ah F.B.I. hit list? I don't wanna be on it.

AGUILAR: You're not gonna be on their hit list. They may wanna know what you know about Abie . . . Just say hey I don't (UI). He's never been a client of yours has he?

SOLOMON: Oh no. No I don't even talk to the guy half of the time. Yeah but ah . . .

AGUILAR: They never asked me anything about Tham.

SOLOMON: Well my information okay . . .

AGUILAR: They never asked me anything about you. [9]

SOLOMON: Okay. My information is from a, you know, a very good source.

AGUILAR: (UI).

SOLOMON: And I think you know . . . you know the guy that did some work for us on the case.

AGUILAR: Bates?

SOLOMON: Yeah.

AGUILAR: Yeah but he's on the outside now.

SOLOMON: Well I understand that.

AGUILAR: But they . . . they . . .

SOLOMON: But, you know . . .

AGUILAR: . . . they were concerned about why he was there to see me and did I intervene in any case . . . I didn't even know he was under indictment.

SOLOMON: He's under indictment.

AGUILAR: I never knew that.

SOLOMON: Well that . . . that's the ah one that ah Allan Dorfman, you know, got shot? Him and ah him and this other guy . . . what the hell's his name . . . from ah Chicago ah Schwartz are supposed to go on trial. I . . . I don't know when but ah that's my understanding.

AGUILAR: He told me . . . they told me he was gonna go on trial in June or July.

SOLOMON: Yeah that's what I heard. He's gonna go on trial shortly.

AGUILAR: The F.B.I. told me. I said look . . . I . . . I'm shocked. This is the first time I've heard about this. He never mentioned this to me. (UI) and I said I'll tell you why he comes to me. He's a family friend. He brings me these . . . As a matter of fact I says if you were watchin' him you'd see he brought in a little box. The other time he brought in a little package . . . meat package. He had the . . . the um sausage. He says well why does he [10] bring it to you and I says his wife and I have been friends all my life.

SOLOMON: Mmm.

AGUILAR: Very good friends Josie Knaack. As a matter of fact I went to visit her when she was injured. 'Cause I was at my mother's home and my mother said I should go see her so I went to see her. I visited for about an hour and as I was gonna go out the door Abie

came out and that's the first time I've ever seen the man. I've never seen him before that. No I did. I saw him at . . . at the wedding of ah . . .

SOLOMON: Your brother.

AGUILAR: No ah no my brother's son. No no. When my brother married it was long before he was into the picture. My brother married . . .

SOLOMON: Oh. You said stepdaughter?

AGUILAR: Yeah uh hum.

SOLOMON: I don't I don't know, you know, I don't know Abe. I don't know who ah . . . I know him but I don't know who he's married to or who his daughters are or whatever.

AGUILAR: He's married to Josie Knaack. As a matter of fact that's what I call her, Mrs. Knaack. We all call her that.

SOLOMON: Mmm.

AGUILAR: She's mar . . . I don't even know, if she's married to this guy. If she is married to him I've never known the name. I didn't know his last . . . his last name was . . . I keep on wantin' to call him Joffe. Abe Joffe.

SOLOMON: Abe Joffe went to school with us. (laughs)

AGUILAR: Chapman that's his name. Joffe went to school with us.

SOLOMON: (laughs)

\* \* \*

[11]

AGUILAR: . . . I would not Ed, I would not be worried. As you are.

SOLOMON: Yeah well I am, you know . . .

AGUILAR: In the first place you shouldn't be worried. What . . . first you've done nothing wrong. All they wanna do is . . . is find out what you know about Abe.

SOLOMON: Well it . . . it goes deeper than that according to my source, okay? I mean uh our relationship I mean. Between you me and ah . . .

AGUILAR: Between me and you?

SOLOMON: . . . you, Abe, Weigel . . .

AGUILAR: Well then why in the hell (UI) . . .

SOLOMON: Eh?

AGUILAR: (UI)?

SOLOMON: I don't know. No I never . . . I never had ah . . . (laughs) . . . I never been, you know, on their hit list. The F.B.I. All they used to do is serve me for the papers with the Teamsters but that ah that's neither here nor there. The . . . the guy, you know, the guy's pretty knowledgeable that gave me the information. If it came off . . . if it came off of some other guy, you know, ah 'cause ah, you . . . you know, I . . . I got out of there's some other shit they just got into ah Abe, Rudy . . .

AGUILAR: What the hell'd they do?

SOLOMON: Well I really don't know. It's somethin' with pallets.

AGUILAR: Pallets?

SOLOMON: Yeah. Ah with L.A. and um . . .

AGUILAR: Stolen pallets or something?

SOLOMON: I don't really know. They didn't tell me. I was representing these two guys from L.A. before the Grand Jury. I thought they were gonna get a walk, you know the

[12]

AGUILAR: Uh hum. Yeah.

SOLOMON: . . . they just go in there, I get them immunity or, you know, ah . . .

AGUILAR: Uh hum.

SOLOMON: . . . and they weren't the target but instead they start tellin' me they are the targets ah one of them especially and that ah, you know, and ah the names of ah Abe and Rudy and ah . . .

AGUILAR: Jesus Christ!

SOLOMON: . . . another guy ah the ex-Mayor's brother-in-law and some other guy down in L.A. You know, I don't know what that investiga . . . I really didn't get into it. Some sort of ah fraud.

AGUILAR: What do these guys doin' for Christ's sake?

SOLOMON: I, you know, I don't know what they do. They're . . . they're . . . they're the over the hill gang.

AGUILAR: Yeah.

SOLOMON: They're the over the hill gang and ah and . . .

AGUILAR: And they gotta keep gettin' involved in crime d'you mean?

SOLOMON: And they gotta keep gettin' involved in all sorts of crap. I don't . . . I don't really know. All I know is, you know, I'm pissed at him ah for gettin' me even on the . . . the list ah that Rudy. You know, he never stops. You know, he always ah, you know, he always says, you know, ta call . . . call you and call you and call you and ah . . .

AGUILAR: And he calls me and tells me to call you.

SOLOMON: Who?

AGUILAR: Ah Abe.

SOLOMON: Abe? Ah he called . . . well I . . . I, you know, I really don't know what Abe's relationship [13] with Rudy is except probably they're in on somethin' ah together.

AGUILAR: They're buddies.

SOLOMON: Yeah they're buddies but ah I don't know what he . . . what he, you know, what he tells Rudy, you know, your relationship or ah ah me ah, you know? But every time they tell me, you know, call you, you know, and then I call you and I . . .

AGUILAR: And I don't know anything.

SOLOMON: Yeah. Well, you know . . .

AGUILAR: Well I don't . . . I've not mentioned anything to them regarding Tham, Rudy, you. They never asked me.

SOLOMON: Yeah.

AGUILAR: And if they ask me, you and I are friends. We went to law school together. We have lunch every so often.



SOLOMON: The only problem, you know, I, you know, I have a feelin' that they've been watchin' Rudy. And ah that's . . .

AGUILAR: I told them that I have had conversations over the phone with Abe. But it was in connection with his finding work for one of my brothers. He got him a job or somethin' like that. I don't know. I told him to contact my brother and that's all. I have nothing . . . don't know what the hell kind of work he got him or anything.

SOLOMON: Well . . .

AGUILAR: As far as my talking with any judges intervening on behalf of Abe Chapman, no. Because I didn't even know he was under indictment.

SOLOMON: These guys'll use everybody.

AGUILAR: They use every trick. But they were . . . they were very satisfied. When I merely told who it was immediately they said oh oh that's fine and closed their book.

[14]

SOLOMON: All right.

AGUILAR: And then as they were gonna leave and I said we just sat and chatted with 'em. They got what they wanted to know why he was there and what he'd brought to me. I told 'em what he'd brought to me.

SOLOMON: What the hell'd he bring you . . . ah cookies.

AGUILAR: Yeah he brought me the cookies.

SOLOMON: Huh. That's something.

AGUILAR: I said I don't have anymore cookies but I still have the box.

SOLOMON: Yeah.

AGUILAR: It's a clear plastic container. I says his wife gives me a bottle of booze and the cookies every year. This year I only got the cookies. I'm falling into disfavor, you see?

SOLOMON: Yeah. Well the only, you know, my . . . my problem is, you know, you . . . you said thay had Abe ah tap . . . ah?

AGUILAR: Had him what?

SOLOMON: Tapped, you know.

AGUILAR: Tapped?

SOLOMON: Yeah, his phones?

AGUILAR: Oh yes. Oh yeah the phone's definitely tapped.

SOLOMON: Huh?

AGUILAR: Absolutely.

SOLOMON: Yeah I didn't know what, you know, between him and . . .

AGUILAR: His home.

SOLOMON: . . . yeah well I don't know between what he said to Rudy . . .

[15]

AGUILAR: But see I told him this the next day. I didn't tell him . . . I told . . . I told my nephew and I said I want you to tell him not over the phone. You get to his house and tell him. He says I'm gonna go see him tonight. So he went and saw him that night and told him and then the next time I talked to Abe

he called me from a pay phone. He only calls me from pay phones.

SOLOMON: Well, you know?

AGUILAR: Then I told him . . .

SOLOMON: These guys never stay off the phone. They call me all hours of the . . . the night, you know?

AGUILAR: From . . . from their homes?

SOLOMON: From their home from their . . . their office ah, you know, that's what I'm worried about, you know, really that ah the shits gonna come on me, you know, we . . . we talked ah, you know, you told me a couple times that . . . that ah you know the guy's gonna treat me fair and then, you know, I think one time he said ah it . . . was it when you went to the football game or something ah, you know, you don't wanna go any further with the man, you know?

AGUILAR: I don't understand that.

SOLOMON: Well ah remember you told me that, you know, you al . . . you always have told me that Weigel would treat me fair but you couldn't guarantee anything.

AGUILAR: That's right. That's right.

SOLOMON: And then you said you I think one time I had a laugh you know.

AGUILAR: You had a what?

SOLOMON: I had a laugh. You told me he, you know, he forgot . . . he thought he decided the case or somethin'.

AGUILAR: Yeah. He told me.

SOLOMON: (laughs)  
[16]

AGUILAR: Forget it. Let . . . let me tell you this Ed . . .

SOLOMON: Go ahead.

AGUILAR: Weigel needed hotel reservations for ten and needed ten flights.

SOLOMON: To what?

AGUILAR: Cabo San Lucas. For Chris . . . right after Christmas.

SOLOMON: Oh.

AGUILAR: Week after Christmas.

SOLOMON: Did he go there?

AGUILAR: So he asked me if I could . . . if I knew any way that I could help him. So I sent him to the Mexican consul. The Mexican consul couldn't help him.

SOLOMON: He could?

AGUILAR: But then . . . pardon?

SOLOMON: He . . . he helped him?

AGUILAR: Couldn't help him. So then I called and found out that P.S.A. was putting on flights to Cabo San Lucas starting November of last year. So I called ah a friend of mine in San Diego who knows the executive president . . . executive vice-president of P.S.A.

SOLOMON: Yeah?

AGUILAR: I said I have got to have ten seats to Cabo San Lucas the week after Christmas. He says you got 'em. Then I got a hold of a



friend of mine who knows the guy that owns the ah Hotel Cabo San Lucas and La Hacienda.

WAITER: You never got your decaf?

SOLOMON: No it never came.

WAITER: Okay. A miscommunication here.

SOLOMON: That's all right.

[17]

AGUILAR: Jesus Christ (UI) dinner.

SOLOMON: That's ah pretty ah rich, huh?

AGUILAR: That's too much.

WAITER: Would you like some Parmesan cheese on your pasta?

AGUILAR: Very very little. Very little. About a third of a spoon. That's good. And then so I got him ah I got him the ah reservations.

SOLOMON: Would you care for this egg? I don't eat eggs.

AGUILAR: Yeah (UI) eggs.

SOLOMON: Yeah I . . . I . . . I don't . . . I don't eat any more eggs because of ah cholesterol

AGUILAR: So he says to me you are a a real friend and I have asked you for help many many times and . . . and you've only asked me for help maybe once or twice and I'm gonna do everything to help you.

SOLOMON: Mmm.

AGUILAR: He never said any more than that.

SOLOMON: That . . . that's in ah . . . for our friend.

AGUILAR: Yeah.

SOLOMON: Mmm. Did they ever . . . did they . . . did they talk to him ah, do you know?

AGUILAR: I don't know. They never mentioned it to me. They never mentioned any judge and I would assume if they were really investigating that they'd say well have you ever talked to Judge Weigel? No I said that's him and is it ah . . .

SOLOMON: Is that Decaf?

WAITER: (UI). Decaf!

[18]

AGUILAR: And then all they asked me is did you intervene in any . . . with any judge on this case?

SOLOMON: On Abe.

AGUILAR: I says I didn't even know Joffee Chapman.

SOLOMON: On Abe . . . on Joffee Jesus Christ (UI).

AGUILAR: And I didn't even . . . I says shit I didn't even know he was indicted. I says I don't even know what judge is handling it and they said Judge Orrick. I says I haven't talked to Judge Orrick about anything. And my conversations with Judge Orrick are good afternoon Judge oh good afternoon Judge and that's it. I says you can ask him that. And that's as far as they go. And they left.

SOLOMON: This is pretty good um good.

AGUILAR: Yes. They were worried that I being a friend of his would go talk to Orrick and get Orrick get information from Orrick or get Orrick to do something to help (UI).

SOLOMON: (UI).  
 AGUILAR: I said that's their concern. Nothing else.  
 SOLOMON: Well okay. May . . . maybe this guy's . . .  
 AGUILAR: No, I'm fully satisfied that . . .  
 SOLOMON: . . . he doesn't know what the hell I'm talkin', you know, maybe he's tryin' to scare me or something.  
 AGUILAR: Well yeah. (UI). There's nothing more than that as far as I'm concerned.  
 SOLOMON: Uh hum.  
 AGUILAR: And they were satisfied because . . . they don't have anything. That's all.  
 SOLOMON: Well you know . . .  
 AGUILAR: You see it's . . . it's . . . it's Abe they're after. And so they're tryin' to see who the hell is he tryin' to bribe or compromise.  
 [19]  
 SOLOMON: Well I tell ya not only ah Abe ah but they're after Rudy and these other guys and . . . my problem is that, you know, I don't know why the guy would tell me this if it isn't gonna come down. You know. This is all my concern. If I come down, where the hell do I go?  
 AGUILAR: What . . . what . . . what the hell could come down on you?  
 SOLOMON: Hey ah, look at.  
 AGUILAR: Nothin'. You haven't done anything.  
 SOLOMON: Well, you know, when I talk to Rudy sometimes I, you know, I'm a lunatic . . .

AGUILAR: Well you talk to him, you're his lawyer. But you haven't bribed anybody. You haven't you haven't compromised anybody.  
 SOLOMON: Uh hum.  
 AGUILAR: You haven't done anything unlawful. You've talked to your client. You can talk to him, you can tell him whatever the hell you want. So I was trying to make him feel good so I told him I had it wired.  
 SOLOMON: 'Cause (UI) obviously about half of these guys need some sort of wiring because at with this other thing in Los Angeles where they had um . . .  
 AGUILAR: What?  
 SOLOMON: They had ah in Rudy's first case I was ah intercepted with Fratiano's phone calls. They served me ah, you know, a list.  
 AGUILAR: You mean they tapped your phone? Or his?  
 SOLOMON: Their phones calling me.  
 AGUILAR: Yeah. You should've never talked to him after that. 'Cause once I found out that they were tapping the guy's phone the first thing I ask him, where are you calling me from? The pay phone. See I can hear the traffic. It's okay. What do you want? I [20] wouldn't talk to him any other time. One time he called me I said where you calling me from? Marilyn's house. I said well I'm busy right now you'll have to call me some other time.

SOLOMON: But these guys, you know, I wanna tell you something they use people always, you know?

AGUILAR: Oh yeah. They never told me don't talk to him about this (UI) the chamber (UI).

SOLOMON: You know, they had me every two minutes ah, you know, calling down there to you and ah . . . remember when I called you in Denver and I said I said you want what do you want . . . do you want . . . they told me to call you and then you said well, I didn't want we ended up talkin' about your . . . your school.

AGUILAR: Yeah.

SOLOMON: Yeah.

AGUILAR: What the hell? I said why're you calling me? What the hell am I supposed to do?

SOLOMON: Do you think that Abe was telling ah Rudy somethin' . . .

AGUILAR: Well what the hell do they want that I could pay money to Weigel or something?

SOLOMON: Who knows?

AGUILAR: I'd never consider that.

SOLOMON: No. You know, Abe is a bullshit artist.

AGUILAR: He's from the old school, you know, they give a guy . . .

SOLOMON: He's a great con man.

AGUILAR: . . . ten bucks and . . . and you're gonna do somethin' you want? Bullshit. (UI) don't do that. I don't.

SOLOMON: Well, you know, all . . . all, you know, I can do is . . .

[21]

AGUILAR: In other words if I talked to a judge all I'd say is be fair to this guy. That's all. Be fair to him. I don't see anything wrong with that. It . . . it's no different from writing a letter of recommendation for a guy.

SOLOMON: That . . . that Weigel I don't know . . . I guess you have a good relationship with him. But, you know, I . . . that guy . . . that guy, you know, is the most rudest guy in the world, you know?

AGUILAR: I understand that.

SOLOMON: Oh man. But, you know, and I think . . . I think he's somewhat . . . excuse the expression . . . senile.

AGUILAR: Uh huh. I think he's gettin' there fast.

SOLOMON: You know, ah, you know, I don't know you . . . you'd probably have to tell him more than once to be fair. I don't think he ev . . . you know, when you tell me he forgot that he . . . that he decide . . .

AGUILAR: Well when he told me he thought he ruled on it.

SOLOMON: Yeah.

AGUILAR: Well that's not unusual. You know . . .

SOLOMON: No.

AGUILAR: That's because I have a lot of cases in my courtroom and shit guys asked me things (UI).

SOLOMON: Yeah but this case I mean, you know, he ah, you know, this is ah . . .

AGUILAR: A cause celebre.



SOLOMON: . . . this is a publicity case, you know?  
 AGUILAR: Yeah.  
 SOLOMON: And . . .  
 AGUILAR: Funny he wouldn't remember that one.  
 SOLOMON: This is one, you know, it's, not the guy who comes off the street and he's a dope dealer [22] or somethin' they send him away. This is a case, you know, involvin' ah prominent San Francisco guy and they just held him in contempt for Christ sake.  
 AGUILAR: Now Rudy Tham, is he Jewish?  
 SOLOMON: No. (UI). No. Rudy Tham is Yugo . . . Yugoslavian. His name is Antonovich. Okay? That was his father who lived in New Jersey . . . left the mother I guess, you know, early in life and ah he . . . he met 'em . . . he met 'em about two times after . . . when he was dyin', you know? Tham is a German or a Dutch name and that was his grandparents?  
 [\* \* side B \* \*]  
 AGUILAR: He took his grandparents' name?  
 SOLOMON: Yeah his mother's.  
 AGUILAR: On his mother's side?  
 SOLOMON: Yeah. Yeah. The only thing with him he's the guy that ah you can't get two cents out of, you know, every all the bullshit . . . they all bullshit you.  
 AGUILAR: You mean he doesn't pay you?  
 SOLOMON: I haven't got paid a penny on this. It cost me about five . . . six hundred bucks. It was a friendship (UI) you know.

AGUILAR: Well what the hell . . .  
 SOLOMON: I . . . I hadda pay Linda sometimes . . .  
 AGUILAR: Linda wrote a damn good brief.  
 SOLOMON: Oh yeah she, you know . . .  
 AGUILAR: What happened to that girl?  
 SOLOMON: Well.  
 AGUILAR: Where'd she go?  
 SOLOMON: She hocked me too much for the money and this and that, you know, she'd bust my ass, you know.  
 AGUILAR: Good-lookin' gal.  
 [23]  
 \* \* \*  
 AGUILAR: (laughs). Yeah.  
 SOLOMON: Terrible. I mean Jesus she can . . . she can drive you crazy but she did some nice work and when I did that other thing she was taken up with that other case ah remember the . . . what was that?  
 AGUILAR: Wrongful discharge.  
 SOLOMON: Wrongful discharge you gave me the instructions? And I had this other kid . . . I can't remember his name . . . Italian kid from Denver do the ah petition for reconsideration ah when he, when he put him he was in jail . . . when they (UI) . . .  
 AGUILAR: Yeah.  
 SOLOMON: So . . .  
 AGUILAR: If they ever ask me what contact I had with you I'll say yeah you asked me over the

years you've asked me questions. Other lawyers do. You asked me something about wrongful discharge. You didn't even give me the name of the people. Cause it wasn't my case. As a matter of fact I don't remember now whether it was a state court case or a federal case but we did discuss wrongful discharge. I'm not gonna tell 'em anything if I have to tell 'em anything that's what I'll tell 'em.

SOLOMON: Yeah. Well I . . . I just . . . I just pray that ah, you know my feel . . .

AGUILAR: I don't think you should be so worried.

SOLOMON: My . . . well . . .

AGUILAR: I don't really think that they're gonna come to that.

SOLOMON: My . . . my feelings are, you know, because this guy said they're gonna go to me and then ah they went to Mister Weigel and ah . . .

AGUILAR: Don't worry about it, okay?  
[24]

SOLOMON: Ah then they . . .

AGUILAR: I wouldn't worry about it.

SOLOMON: . . . then they're gonna, you know, me. And then ah . . .

AGUILAR: What is Weigel gonna tell 'em? Yes Aguilar came and offered me a bribe? Or Aguilar came and asked me to do something? Weigel would never say that.

SOLOMON: Well . . .

AGUILAR: We're not even supposed to listen to something like that. No. Weigel is not

gonna say anything. Weigel likes me. Weigel would not do anything that would in any way injure me.

SOLOMON: How . . . how'd he get to like you for Christ's sake? This guy hates everybody in there for cryin' out loud.

AGUILAR: Weigel liked me from the very beginning. And I'll tell you a story. When I first came on this court in 1980, the White House called me three times while I was in the dining room. Three different occasions. And each time it was to invite me to Washington D.C. to have dinner with the President.

SOLOMON: Did you?

AGUILAR: Weigel got me . . . yes and I went. Weigel got the message. He answers the phone in the dining room. Nobody else.

SOLOMON: Well you mean in the judges . . .

AGUILAR: Judges' dining room.

SOLOMON: I thought you had a dining room at house . . . in the house. I thought what the hell does he answer your phone for?

AGUILAR: But . . . but it's . . . only he answers that phone. Each time he says it's the White House for you. So he came up to my chambers and wanted to know what it was and says I know you're gonna be Attorney General. No. He says you're gonna go to the you're gonna go to the [25] Supreme Court. I says Stanley come on. He says now look I know you won't tell me but if you're gonna be Attorney General he says I wanna be your Deputy Attorney General and you gotta remember me.



SOLOMON: (laughs)  
 AGUILAR: Now ser . . . seriously. He was serious about this . . .  
 SOLOMON: Yeah? (laughs)  
 AGUILAR: Oh yeah he'd come to see me daily.  
 SOLOMON: Hey . . . hey wait a minute Bobby. That was ah eight years ago he was only seventy-two then ah . . .  
 AGUILAR: I know. We had been . . . because of that we've become real friends. Then when I got him these airline tickets and I got him the reservations out there it it was impossible. He called all kinds of people and he couldn't get anywhere.  
 SOLOMON: Mmm.  
 AGUILAR: And I did it for him. He just thinks it's . . . God he says you . . .  
 SOLOMON: He travels that far?  
 \* \* \*  
 AGUILAR: In 1982 he went to Mexico . . . to Mazatlan and he asked me about Mazatlan. Where he should stay and ah where the best places to go and he says where are the cleanest and safest places to go?  
 WAITER: Can I take your plate?  
 SOLOMON: Yeah. Very good. Here.  
 WAITER: How was the lamb?  
 AGUILAR: It was good thank you.  
 WAITER: Good.  
 AGUILAR: Thank you.

[26]

SOLOMON: And I'll have a little more decaf if you have it.  
 WAITER: A little more decaf?  
 SOLOMON: Yeah.  
 AGUILAR: You can . . . noth . . . nothing more for me. If you're gonna . . . if you're gonna go . . . do you have any vanilla ice cream?  
 WAITER: We sure do.  
 AGUILAR: One little scoop. One scoop of vanilla.  
 SOLOMON: Come on will ya for Christ sake? Have . . . have mercy on your body.  
 \* \* \*  
 SOLOMON: Does he . . . is he he doesn't have a wife.  
 AGUILAR: He has a wife yeah. She's always sick and she never travels with him.  
 SOLOMON: Oh my God!  
 AGUILAR: The only time she travels with him is when the family goes. That's why he needed ten tickets 'cause he has two daughters and they have a son-in-law . . .  
 SOLOMON: I don't I really don't know too much about the guy except, you know, with my encounter with him ah, you know, ah that was . . .  
 AGUILAR: No he likes me.  
 SOLOMON: That was enough . . . that was enough, you know, Jesus Christ I . . . I thought that I was gonna get murdered ah all my encounters with him, you know, ah the man just ah gets on everybody's case. I don't know why but ah . . .

AGUILAR: You know, I tried a . . . two cases before him when I was a lawyer. He never chewed me out. Never said anything bad to me but he chewed the other guys out.

[27]

SOLOMON: I . . . I didn't even open my mouth. I said, you know, this is what ah we can show and he says . . . (laughs) . . . shut up.

AGUILAR: He says that, shut up? No he never . . . nev . . . I never had . . . I've never had trouble with any judge.

SOLOMON: (UI) shut up that's all hearsay and let Mister Beeson talk. So I shut up. You know? I didn't know whether he wanted me to get shot and then the next time we went there the . . . he teared . . . teared the head off of that kid ah Rappaport.

AGUILAR: (UI).

SOLOMON: I was off the hit parade but I guess he takes turns, you know, I watched him in his ah in his pre-trials and so forth . . . well you must know who he ah has that mannerism.

AGUILAR: Oh yeah.

SOLOMON: Uh you know, but what ah what can I tell you, you know, ah when he's up there he's the king.

AGUILAR: God I hope I never get that reputation.

SOLOMON: Well . . .

AGUILAR: But of course I don't do that.

SOLOMON: Well, you know, you know, ah the . . . the . . . the thing is . . . well, you know, some of them guys, you know, umm . . .

AGUILAR: Sam Conti's that way.

SOLOMON: Well . . .

AGUILAR: Vukasin's that way.

SOLOMON: . . . well I don't know but . . .

AGUILAR: Have you appeared before Vukasin in this case yet?

SOLOMON: No. No no.

AGUILAR: He hasn't set it for hearing?

[28]

SOLOMON: No he hasn't. They're supposed to ah I talked to his clerk and she's supposed to ah give me . . . he's gonna . . . he's gonna rule on it right from the . . .

AGUILAR: Then, he's gonna take it under submission on the papers?

SOLOMON: Right.

AGUILAR: No hearing (UI).

SOLOMON: Well and that's . . .

AGUILAR: That's . . . that's typical of him. He's not gonna give you a hearing.

SOLOMON: Well I . . . I don't know about that, you know, I . . . I'm not gonna argue with him. Ah I'm sort of ah relieved I don't have to go before him. But ah I I never been went before him. The only . . . the only one that went before him was Linda on another wrongful discharge and I think it was with P.G. and E.

AGUILAR: Uh huh.

SOLOMON: And the . . . and the union and ah he dismissed that one ah . . .

AGUILAR: No he likes P.G. and E., you know?

SOLOMON: He said . . . he said . . . he said . . . he said that the guy was a really a gentlemen with her. Ah real nice and um . . .

AGUILAR: But he threw her case out.

SOLOMON: Yeah well yeah, what am I gonna tell ya, you know, I don't know the man, uh you know, um Conti ah I . . . I've been before him a couple of times but not that extensive and, you know, he's not rude he don't . . . he gets heavy on your client. But ah Orrick he . . . he, you know, he doesn't say too much and Schnacke don't say too much but ah, you know, the . . . the . . . you know, they're heavy on criminal cases.

AGUILAR: Heavy sentencers.  
[29]

SOLOMON: Yeah.

AGUILAR: You can't . . . you can't fault a judge for being heavy on criminal cases.

SOLOMON: Oh no I'm not . . . I'm not telling you that.

AGUILAR: Because I mean there's guys that are . . . are . . . are light like me.

SOLOMON: Yeah.

AGUILAR: And there're guys that're heavy like Conti and shit that . . . that's the way they are. What're you gonna do?

SOLOMON: I . . . well you can't . . . you can't do nothing.

AGUILAR: As long as they're not rude to you. (UI).

SOLOMON: That's right. Hey I have no . . . I have no problems with the judge providing, you know, he treats you like a human and ah . . .

AGUILAR: That's right.

SOLOMON: That's . . . that's all. I don't . . . I don't ask him to ah, you know, ah . . .

AGUILAR: I've never complained about a judge who sentenced a client of mine heavily. 'Cause I figure, you know, he's . . . he's doin' it within the guidelines and as along as he does that's his judgment.

SOLOMON: Oh yeah. You . . . you know?

AGUILAR: I've never, you know, my clients have bitched and everything. I said, hey, you know, he's got a right to do that.

SOLOMON: That's right.

AGUILAR: As long as he doesn't . . .

SOLOMON: Overdo it . . .

AGUILAR: You know, I mean that's total way way out of line. But in twenty years I only had five guys sent to prison. All the others were county jail time or probation.

[30]

SOLOMON: Well . . . hey that's good. You know? I had more than that.

AGUILAR: And I had a hell of a lot of . . . I had a big criminal trial. (UI).

SOLOMON: Yeah well your brother did . . . did a lot of property and divorce with you.

AGUILAR: That's what I did.

SOLOMON: Well you on . . . you were on with Jesse.

AGUILAR: No. I did . . . I did probably forty percent real property. I represented Valley Title Company. And I represented twenty real



estate brokers and five car dealerships. I had a complete general practice.

SOLOMON: Well you got . . . you got all your criminal cases on the car dealers then.

AGUILAR: What I always did I always did about twenty . . . twenty-five percent criminal. I tried six murder cases. I had the largest marijuana case in the United States at one time. Thirty tons of marijuana in San Diego.

SOLOMON: Jesus Christ.

AGUILAR: I had the largest marijuana case in this county when they were talking they never even heard of a kilo and I had two hundred and eighty-six kilos.

SOLOMON: Huh.

AGUILAR: I got the guy six months in the county jail.

SOLOMON: That's real good.

\* \* \*

AGUILAR: Well when you . . .

SOLOMON: Go go ahead.

AGUILAR: When you call me . . . if you need to call me call me at work . . .

SOLOMON: Yeah I know (UI).

[31]

AGUILAR: And just say on, over the phone just say to me god I ran into some of our . . . our classmates.

SOLOMON: Yeah.

AGUILAR: And we oughta have lunch together.

SOLOMON: All right. All right. All right.

AGUILAR: And then we'll go from there.

SOLOMON: Okay.

AGUILAR: And what we're doin' is discussin' things about our classmates.

SOLOMON: Right right. Okay.

AGUILAR: Abe Joffe . . . say I ran into Abe Joffe.

SOLOMON: Abe Joffe. You have him in jail already you son of a bitch. (laughs)

AGUILAR: (laughs) I don't (UI).

SOLOMON: The poor bas . . . the poor bas . . . the poor bastard served thirty years as of today. No Abe is still still taps his fingers, you know?

AGUILAR: Nervous (UI)?

SOLOMON: Right and never gains a pound the bastard.

AGUILAR: Well you . . . you see those guys tell 'em I said hello to 'em.

SOLOMON: Yeah I don't see Abe, you know, he . . .

AGUILAR: They'd probably . . . they'd be shocked to learn I'm a federal judge. (laughs)

SOLOMON: Yeah. Well I think everybody knows, you know, ah either that or they're stupid uh but ah I don't see Abe that much ah, you know, once in a while and I but I hear about him through other people.

AGUILAR: Yeah.

[32]

SOLOMON: Um and, you know, you . . . he ah he does pretty good, you know?

\* \* \*

AGUILAR: And always . . . well see I do a lot of travelling as a lawyer and now in San Francisco . . . I was supposed to be in San Francisco today at a judges' meeting.

\* \* \*

SOLOMON: (laughs) Bob . . . hey Bobby . . .

AGUILAR: Listen I gotta go.

SOLOMON: . . . good seein' you, huh?

AGUILAR: But hey don't . . . Ed . . . don't worry about it. Seriously.

SOLOMON: I won't. But ah if I hear anymore I'll call you. Our classmates ah ah . . .

AGUILAR: Okay.

SOLOMON: . . . wanna get together . . .

AGUILAR: As far as I'm concerned we discussed a wrongful termination case. That's it.

SOLOMON: All right. Thank you.

\* \* \*

[1] The following is a substantially verbatim transcript of a portion of a consensually recorded conversation which occurred on May 26, 1988, beginning at approximately 3:00 p.m., at San Jose California

\* \* \*

ROBERT

AGUILAR: You're eating too much.

EDWARD

SOLOMON: Oh. What do you say Bob?

AGUILAR: I'll be with you in a moment. I'm gonna go to the bathroom then I'll be right back.

SOLOMON: You want some ah . . .

AGUILAR: No I don't want anything.

SOLOMON: You s . . . you want a cup of coffee?

AGUILAR: Glass of water's fine. No.  
(PAUSE)

SOLOMON: Can we have ah two glasses of water? I don't know if he's gonna have anything else.

WAITER: Two glass of water?

SOLOMON: Yeah.

(PAUSE)

SOLOMON: Thank you.

WAITER: Uh hum.

(PAUSE)

WAITER: I know he gonna drink tea (UI).

SOLOMON: Okay. Fine. Hey whatever he ah wants you know?

Yeah.



SOLOMON: Give me the bill.  
(PAUSE)

[2]

SOLOMON: The waiter says I know he's gonna drink tea. (laughs)

AGUILAR: Oh yeah. Okay.

SOLOMON: I can't fight him (UI).

AGUILAR: (UI) were you properly followed? (laughs)

SOLOMON: Huh?

AGUILAR: What's happening?

SOLOMON: Well I told you, you know, the guy talked to me Tuesday . . . this last Tuesday? When I came out of my driveway . . .

AGUILAR: Uh hum.

SOLOMON: . . . there were two guys from the F.B.I.  
. . .

AGUILAR: Uh hum.

SOLOMON: . . . wait. Let me find the thing here. I don't . . . I got one card. And ah he started to get on me. Yeah this guy. Thomas . . . well it has this . . . Thomas what?

AGUILAR: Carlon. Yeah.

SOLOMON: Yeah.

AGUILAR: Uh hum.

SOLOMON: Okay.

AGUILAR: He's not the one that talked to me. (UI).

SOLOMON: I don't . . . I don't know.

AGUILAR: Yeah he's not the one that talked.

SOLOMON: Ah he was waitin' for me, you know, where I live in Hillsborough and I . . . he

was waitin' for me. And there . . . and there was another guy with him.

AGUILAR: Uh hum.

SOLOMON: And they stopped me, you know, as I was driving off . . .

[3]

AGUILAR: Uh hum.

SOLOMON: Fortunately my house is sort of down and away . . .

AGUILAR: (UI).

SOLOMON: . . . yeah. Not ah visible, you know?

AGUILAR: Yeah.

SOLOMON: My wife is gonna think what the hell's goin' on. So they get out and they told me what was Rudy's and Abe's relationship.

AGUILAR: To each other.

SOLOMON: Yeah. And I said hey I don't know. They ah I guess they know one another but that's all I know they do, you know? Whatever they do they do by themselves.

AGUILAR: Yeah.

SOLOMON: Ah then he asked me um Abe's relationship to me. And I said hey I hardly talk to the guy you know, I don't . . . don't associate with him.

WAITER: Hello. How you doing?

AGUILAR: Fine. How are you today?

WAITER: Very good very good. You gonna have lunch?

AGUILAR: (UI).

SOLOMON: Want a little pie or somethin' or ice cream?

AGUILAR: No no I don't . . . this is (UI). No this is fine.

SOLOMON: You musta ate heavy for lunch.

AGUILAR: I just ate lunch.

SOLOMON: Yeah but you musta ate a heavy lunch.

AGUILAR: No.

SOLOMON: Okay. (UI), you know, what's . . . I can tell you I hardly know the man. I . . . I know him casually, you know? I seen him around. [4] That's about it. Then they asked me if I know any relationship between you and Abe and I says I don't know. You know? Period. I says I don't know anything.

AGUILAR: Who, me?

SOLOMON: Yeah. And ah then they ah asked me my relationship with Rudy I says that's client, you know, attorney privilege, you know, I says ah I can't ah go into that. Then they asked me about you and me. Yeah. So I says hey I know him I know his brother I know a lot of guys ah the . . . they went to school with me. We occassionally have lunch. We occasionally see one another, you know, but ah no big deal. You know? So then they asked me about do you have any relationship with Rudy I says hey I don't know, you know, I says . . .

AGUILAR: Me having any relationship with Rudy?

SOLOMON: . . . yeah I says hey, you know, what the hell do I know what ah, you know, you must think I . . . I live on Rudy's block,

you know, and I says I don't know what's goin' on, you know, with ah these different people, you know ask them. And I got a little salty with them and they got a little pissed at me and ah then they said ah, you know, ah we subpoenaed your toll calls. Records. Your phones. And ah I said hey ah good luck, you know? And ah then they got all on me then they said, you know, there's a grand jury goin' on now. We're gonna subpoena you. You know, I don't know. Then they ah they wanted to know if you had anything to do with Rudy's case. I says hey I don't know anything, you know?

AGUILAR: With Rudy's what?

SOLOMON: Case.

AGUILAR: Well you represent him, don't you?

SOLOMON: Yeah no no you.

AGUILAR: Whether I had anything to do with Rudy, huh?

[5]

SOLOMON: I says hey I don't know anything, you know, ah period, you know? I have no idea what the hell's goin' on but ah, you know, but a . . . they left and they . . . they told me they'd be back with a supoena for the grand jury and they have my records already so I don't know what the hell's goin' on. But they're gettin' me nervous these guys. I . . . I really wanna get out of that . . .

AGUILAR: Have you ever called me? You called me here at chambers.



SOLOMON: Yeah in chambers.  
 AGUILAR: That'll show toll calls.  
 SOLOMON: Right.  
 AGUILAR: They'll show that you did call me.  
 SOLOMON: Yeah. —  
 AGUILAR: You called me several times.  
 SOLOMON: You know, yeah. Well ah a lot a times, you know, who, you know, they give me a subpoena what the hell am I gonna tell these ah . . .  
 AGUILAR: Well say we . . . we . . . we talked. We've been talkin' for years.  
 SOLOMON: Uh hum.  
 AGUILAR: When I was at San Francisco we would have lunch. And you would call me.  
 SOLOMON: Oh yeah. I know your brother and (UI) . . . . . you know, I'm worried about it because ah . . .  
 AGUILAR: Well you don't have anything to worry about. You represent the guy. You do whatever you can unless you do something unlawful. You didn't do anything unlawful. I'm the guy that's concerned if I have any . . . if I had any conversations with anybody. But my (UI) conversations that I had can be explained. I never asked him, you know, I'm sure that ah if there is anything that I've done that's . . . for which I should be worried. I shouldn't be involved at all.

[6]

SOLOMON: Yeah.

AGUILAR: But (UI).  
 SOLOMON: Well, you know, because if they . . . they're gonna ask me obviously what we've talked about ah, you know, ah when I called you. I'm gonna just tell 'em hey I, you know, we talked about how to do pleadings ah, you know, ah . . .  
 AGUILAR: We talked about Willie Brown we talked about Abe Joffe we talked Gabe Solomon (phonetic). We just talked personal matters.  
 SOLOMON: Yeah well.  
 AGUILAR: Your wife.  
 SOLOMON: My wife yeah.  
 AGUILAR: My girlfriend.  
 SOLOMON: But, you know, I'm just worried because ah . . .  
 AGUILAR: You never, have never asked me to intervene in any case in which you were a lawyer. Or never asked me to intervene in any case in which I was the judge or in which any of my fellow judges (UI). You never have.  
 SOLOMON: Well no. No. You know . . .  
 AGUILAR: Never have asked me to do anything like that. You've asked me procedural questions.  
 SOLOMON: Oh.  
 AGUILAR: Which lawyers ask me all the time.  
 SOLOMON: No I . . .  
 AGUILAR: But not on any of those cases.



SOLOMON: Well, the, the, I'll just tell 'em, I uh, we talked about procedural things ah ah I won't . . . I won't men . . .

AGUILAR: Once you asked me something about a wrongful termination case.

[7]

SOLOMON: Okay.

AGUILAR: That's all. I had never seen Rudy Tham and I've never talked to Rudy Tham.

SOLOMON: Okay.

AGUILAR: I . . . I never have.

SOLOMON: Hey I don't know who's who you know? All I know is that ah . . . somehow or other (laughs) between Abe and ah . . .

AGUILAR: But what caused it is they saw Abe at my house.

SOLOMON: Yeah. This Abe is terrible. You gotta stay away from him with a ten foot pole.

AGUILAR: No I have nothing to do with him anymore. But, you know, he's an . . . he's a . . . he's a relative.

SOLOMON: I understand.

AGUILAR: And he brings me sausage. He used to. He used to bring me sausage that his wife would send me.

SOLOMON: You know a little Jewy . . . ah Jewish?

AGUILAR: And some cookies.

SOLOMON: You know a little Jewish these guy're bringin' you Soares (phonetic).

AGUILAR: (UI).

SOLOMON: You know, I've been in . . . involved in . . . I nev . . .

AGUILAR: (UI).

SOLOMON: . . . I've never been involved in this shit before.

AGUILAR: But . . .

SOLOMON: I don't know what to say when they ask me.

AGUILAR: . . . (UI) no problem for you.

[8]

SOLOMON: Yeah well . . .

AGUILAR: All you gotta say is hey look, what is your question? Your question is did I ever talk to Judge Aguilar about Rudy Tham? The answer is no.

SOLOMON: All right.

AGUILAR: Did he ever bring up Rudy Tham to you? Not to my recollection. I don't know. Ah I don't think so. Did you ever ask Judge Aguilar to intervene? No. (UI).

SOLOMON: Well that's the . . . that's the truth. I never asked you to talk to anybody.

AGUILAR: Uh hum.

SOLOMON: But um all right. You know, I just wanted to know . . .

AGUILAR: I may have to . . . if they subpoena me I may have a problem. A real problem explaining my discussions with Judge Weigel. It depends on what Judge Weigel says.

SOLOMON: I have no idea. You know, that's . . . that's what's got me all disturbed. When this guy, you know, left ah, quit the case, you know, I got nervous. I said what the hell's happening?

AGUILAR: Maybe he quit the case because they went up to talk to him about me and the case. What did I do, did I go and intervene?

SOLOMON: Well all I can tell you is that ah, you know, I . . . I'm gonna get rid of Rudy. Ah, you know, ah I can't take this ah . . .

AGUILAR: (UI).

SOLOMON: . . . I'm havin' a nervous wreck.

AGUILAR: No, no. (UI) get out of it.

SOLOMON: You know, my . . . my ah family and ah my health conditions and shit, you know, the guy he doesn't pay anything and ah . . .

[9]

AGUILAR: Well if he doesn't pay you then get the hell away from him.

SOLOMON: (UI) he never paid me.

AGUILAR: It's not worth the grief. It's not worth the grief.

SOLOMON: It cost me . . . it cost me money.

AGUILAR: It's not worth the grief.

SOLOMON: I did it because of friendship but, you know, they ah they sort of use us I think.

WAITER: (UI).

AGUILAR: It's not worth the grief.

SOLOMON: You know? Thank you, huh? They sort of really . . .

AGUILAR: I personally, I didn't do anything.

SOLOMON: Well I'm happy.

AGUILAR: I know what I did but I mean I don't . . .

SOLOMON: Yeah I'm happy, you know? Because ah, you know, where we talked about it was

ah, you know, all you said was that they'll get a fair shake.

AGUILAR: See they never . . . when they talked to me they never asked me about Rudy Tham.

SOLOMON: Well (UI) me.

AGUILAR: But they never asked me about . . . they never mentioned him.

SOLOMON: Yeah.

AGUILAR: If they come and they ask me about him I'll say well I remember Abe asked me if I go to San Francisco often. And I says yeah. He says can you find out whether they're gonna have a hearing on a motion for Rudy Tham?

SOLOMON: No I know.

[10]

AGUILAR: And I'm gonna say well who's handling that? And he says Judge Weigel well I'll ask Judge Weigel.

SOLOMON: Uh hum. Well . . .

AGUILAR: (UI), you know? And I don't know who Rudy Tham is I don't know anything about him.

SOLOMON: I wish I didn't know.

AGUILAR: But see what you know you know as a lawyer. You haven't done anything else. You haven't bribed anybody.

SOLOMON: Well . . . I hope not.

AGUILAR: You haven't asked for any favor from any judge. So you have no problem.

SOLOMON: Right.

AGUILAR: You have no problem at all. Even if you went to the judge and said judge we got this thing . . . I wish, you know, you'd give this guy a break that's . . . that's what your . . . your job. You're a lawyer.

SOLOMON: Hey I wanna tell you somethin'. I don't even talk to the . . . the clerk in Weigel's court or Vukasin without notifying the U.S. Attorney's Office.

AGUILAR: No but I . . . I wouldn't think in my personal view you have done nothin' wrong.

SOLOMON: Okay. I'm happy ah, you know, but . . .

AGUILAR: You've done nothing wrong.

SOLOMON: . . . you know, I'm sixty years . . . gonna be sixty. (laughs) I don't know what the hell to do to start over. My old . . .

AGUILAR: Well there's no problem . . . no problem.

SOLOMON: . . . my old lady'd throw . . .

AGUILAR: Me too! How 'bout me?

SOLOMON: . . . my old lady'd throw me out.

[11]

AGUILAR: That's why I wouldn't do anything like that. I didn't do anything wrong. I wouldn't do anything wrong.

SOLOMON: No right. Anyhow . . .

AGUILAR: You know, I write letters of recommendation for guys. I don't see anything wrong with that.

SOLOMON: I . . . I shouldn't even bring this up but umm I think last time you said ah Abe's phone was ah . . .

AGUILAR: Did what?

SOLOMON: . . . Abe's phone was bugged?

AGUILAR: Oh yeah. Definitely.

SOLOMON: I wonder how you can tell I mean geez I'm gonna check . . . I don't even take phone calls from ah I gotta . . . I gotta check (UI) . . .

AGUILAR: But this morning you called me from the office, didn't you? The first call this morning . . . yesterday. When you called me yesterday.

SOLOMON: No no I was out in ah Santa Rosa.

AGUILAR: Oh okay.

SOLOMON: No I didn't call you from the office. I haven't called you today from the office . . . I called you down here when I was . . . because ah . . .

AGUILAR: But A . . . but Abe don't worry . . . you.

SOLOMON: (laughs) No I'm not Abe I'm Ed.

AGUILAR: . . . I mean Ed you didn't do anything wrong Ed.

SOLOMON: Okay.

AGUILAR: You didn't do anything wrong. The only problem is . . . is between Abe asking me to intervene with another judge and my intervening with another judge. What I did . . . oh no geez . . .

[12]

WAITER: (UI).

SOLOMON: Have another, you know, you could use the weight.

AGUILAR: But ah if I did anything at all . . . and it is . . . I went up, you know, what I did he



would never repeat so I (UI) know another judge come up and asked me something. I'm not worried about what he says.

SOLOMON: Okay.

AGUILAR: But they never asked me about this.

SOLOMON: Well okay well . . .

AGUILAR: If they ask me about that I'll say (UI).

SOLOMON: (UI) . . .

AGUILAR: All they asked me was about Abe.

SOLOMON: You know, that Abe and him hanging out everyday, you know, they ah . . .

AGUILAR: I haven't . . . I've never seen the man. I have never seen the man.

SOLOMON: I know I know I'm just saying.

AGUILAR: (UI).

SOLOMON: He . . . he, you know, he has that ah place in South San Francisco ah they hang out there with some candy as distributor.

AGUILAR: Beats the hell out of me.

SOLOMON: But ah . . .

AGUILAR: I'm . . . I'm . . . far as I'm concerned my conscience is clear.

SOLOMON: Good.

AGUILAR: Abe comes to see me as a friend. One time Abe asked me if I'd look into the date for a hearing and all I did was ask the judge if he'd set it for a hearing and what the hearing date was.

[13]

SOLOMON: All right.

AGUILAR: I don't think I discussed . . . I says I would have never discussed the merits of the case 'cause I don't know the god damn merits of the case.

SOLOMON: Mmm. Anyway, you know, it's just ah it's just a situation I, you know, I don't . . . (laughs) . . . in thirty years I haven't been investigated, you know, with the . . .

AGUILAR: (UI).

SOLOMON: . . . and the only one that's investigated me is the ah Internal Revenue called me and ah . . . (laughs) . . .

AGUILAR: Well what they're checking on is to see if anybody's trying to grease the rails.

SOLOMON: Mmm.

AGUILAR: And nobody's been doing that. Nobody's offered anybody any money. Nobody's . . .

SOLOMON: Hey. Hey please.

AGUILAR: . . . (UI) we don't do that kind of stuff. Shit I've never taken a bribe in my life and never will.

SOLOMON: Well . . .

AGUILAR: But the guy asked me a question to check something out I'm gonna check it out.

SOLOMON: Yeah.

AGUILAR: I don't see, where it's a matter of public record.

\* \* \*

SOLOMON: Yeah.

AGUILAR: But Ed let me repeat this so . . . (coughs) . . . excuse me . . .

SOLOMON: Take it easy.  
[14]

AGUILAR: . . . I don't know what was said in a phone conversation or phone conversations between you and Abe.

SOLOMON: Yeah. No I nev. . .

AGUILAR: But regardless of what was said . . .

SOLOMON: . . . I never talked to Abe. I only talked to Rudy.

AGUILAR: Okay. I don't think that there is anything that you did that involves an act of criminality. You were the man's lawyer you had a right to represent him in the way you saw fit. As long as you didn't offer a bribe to a public official as long as you didn't offer a bribe to another person to bribe a public official. There's nothin' wrong if in the sentencing process you ask somebody to talk to the judge. Okay? There's nothing wrong with that. But that was not done here. That was not done here.

SOLOMON: No I . . . I didn't talk to him.

AGUILAR: You haven't done anything wrong. You haven't done anything wrong so don't worry.

SOLOMON: Well okay. I just, you know, I just . . . I'm concerned about, you know, your and my relation and ah, you know, what the hell do I tell these guys when they get me up there.

AGUILAR: What you told 'em is right.

SOLOMON: All right.

AGUILAR: They didn't ask you have you discussed Rudy with Aguilar. Did they ask you that?

SOLOMON: Well they haven't, you know, that but they asked me what your relationship to Rudy was and ah, you know, next question is have I . . .

AGUILAR: None. I have no relationship to Rudy.

SOLOMON: No. The next . . .

AGUILAR: I don't know the man.

SOLOMON: No no.

[15]

AGUILAR: I haven't seen him.

SOLOMON: No they asked me our relationship and did you intercede in any way into Rudy's case. And I said none. You know, I says I know the guy. We went to school, you know, ah we have occasional lunches. His brother's a good friend of mine ah so then, you know, I . . . I . . . I . . .

AGUILAR: But did they ask you has he . . . did he intercede . . .

SOLOMON: Right.

AGUILAR: . . . in Rudy's case?

SOLOMON: Right right. And I said no. Why . . . why should he ah . . .

AGUILAR: I didn't intercede I asked a question. That I did. I remember that.

SOLOMON: Okay well ah, you know . . .

AGUILAR: (UI).

SOLOMON: . . . maybe that's what they . . . I guess that's why they subpoenaed my ah records ah.

AGUILAR: To see if you had any calls to me.  
 SOLOMON: Yeah. Yeah. Because ah, you know . . .  
 AGUILAR: And you have made calls to me.  
 SOLOMON: Oh numerous calls. Ah I don't remember what was said in all . . . (laughs) . . .  
 AGUILAR: I don't remember what was said either. There was a time when you were asking me a question about procedure . . .  
 SOLOMON: We asked you a question . . .  
 AGUILAR: . . . in a wrongful termination case . . .  
 SOLOMON: Yeah yeah yeah yeah yeah. And I mighta asked you a question or two about procedure, how to get things back on the calendar and, but Rudy.

[16]

AGUILAR: I don't . . . you may have mentioned the name Rudy. I don't know because I didn't know at that time I did . . .  
 SOLOMON: All right.  
 AGUILAR: . . . I still don't know anything about the case.  
 SOLOMON: Yeah. Well okay. 'Cause I . . . I, you know, I'll just tell 'em ah I know nothing. You know, I just, you know, let's hope it's like you say it is, you know? I don't know . . .  
 AGUILAR: (UI) asking procedure (UI) . . .  
 SOLOMON: I don't know . . . 'cause I don't know . . . you see . . .  
 AGUILAR: . . . you called me . . . did you call me home once or twice?

SOLOMON: I called you in Denver once because they insisted and you didn't even wanna talk to me. Umm I hadda call your house and the lady answered and gave me the number in Denver because ah Abie ah and him were going on me huckley-buck ah I says wh . . . wh . . . I don't even know the woman's name. What do you call her?

AGUILAR: (UI).  
 SOLOMON: And then . . .  
 AGUILAR: Was it my house?  
 SOLOMON: Yeah. You know, I . . . I, you know, I say what do I call her, woman?  
 AGUILAR: Yeah sure. (UI).  
 SOLOMON: And I . . . and I told her that Abe ah told me that . . .  
 AGUILAR: My daughter-in-law.  
 SOLOMON: I told her Abe ah told me to call to get your number and then I called Denver ah ah if you recall and then I asked you . . . they told me to call you and then you said I didn't tell anybody to call me. And then we talked about [17] you were going to some sort of school there to teach the other judges.  
 AGUILAR: Well if they bring it up say what's this call. 'Cause if it's a call to Denver they don't know it's a call to me.  
 SOLOMON: Yeah. Well that's ah, you know, but I don't remember what it is, everything.  
 AGUILAR: I think they're tryin' to get me.  
 SOLOMON: I don't know who they're tryin' to get. I



mean they're tryin' to get I think all of us.  
Somehow (UI) . . .

AGUILAR: Well I wouldn't worry about it anymore  
and we need not discuss this any further.

SOLOMON: Okay. Okay Weigel, when he dropped out  
. . .

AGUILAR: He may have dropped out because they  
came and asked him questions and he  
didn't wanna be involved.

SOLOMON: Well okay you gotta get back, huh? At  
four o'clock?

AGUILAR: Yeah. I got a hearing.

SOLOMON: Hey thanks for your time, you know, and  
if I hear anything ah I'll try to get . . .

AGUILAR: (UI).

SOLOMON: If anything develops I'll try to get in touch  
with you.

AGUILAR: Always call me by pay phone.

SOLOMON: Okay. Pay phone. Wait one minute I'll go  
out here with you. How's Jessie?

\* \* \*

AGUILAR: All right senior.

SOLOMON: Anyhow . . .

AGUILAR: Don't worry.

SOLOMON: Okay thank you.

[18]

AGUILAR: Don't . . . you don't worry.

SOLOMON: All right. Thank you Bob.

(PAUSE)

AGUILAR: I'm looking around and I don't see any of  
them . . . the F.B.I. around (UI).

SOLOMON: I . . . I don't think I'm, you know, fol-  
lowed, you know, but ah . . .

AGUILAR: They follow everybody else.

SOLOMON: Hey . . . (laughs) . . . leave me alone.

AGUILAR: (UI).

SOLOMON: That's all I need and my wife ah . . .

AGUILAR: Well I'm surprised that they waited for you  
(UI) whey didn't they just call you and  
make an appointment.

SOLOMON: Well hey they . . . the city they do it a little  
different there, you know, they . . .

AGUILAR: Maybe they like the element of surprise.

SOLOMON: . . . they ah went down ah and wait outside  
your door. Ah they like to catch you off  
guard I guess.

AGUILAR: Yeah the element of surprise. (UI).

SOLOMON: And in your weaker moments, you know,  
you're in a trauma.

AGUILAR: Yeah right.

SOLOMON: You're traumatized. Just like the I.R.S. All  
right Bob.

AGUILAR: Take it easy.

\* \* \*

[1] The following is a substantially verbatim transcript of a portion of a consensually recorded conversation which occurred on June 22, 1988, beginning at approximately 2:26 p.m.

\* \* \*

SPECIAL  
AGENT  
THOMAS J.

CARLON: Yeah I'm Tom Carlon with the F.B.I. We have an appointment with Judge Aguilar.

UNIDENTI-  
FIED MALE: Oh.

DAVID

SIPIORA: Our secretary's out here (UI).  
((UI) — several people speaking simultaneously.)

SIPIORA: Oh hi. How you doin'? I'm Dave Sipiora.

CARLON: Hi Dave, how're you?

SPECIAL  
AGENT  
DONALD

MAX NOEL: Hi judge, Ah . . .

ROBERT

AGUILAR: Hi, come on in.

CARLON: Oh hi judge, how you doin'?

AGUILAR: Give me one second. I'll be there in a second.

NOEL: Thank you very much.

CARLON: Oh sure.  
(Pause)

NOEL: It's cloudin' up again. Pretty though.

[2]

CARLON: Yeah, perfect.

\* \* \*

AGUILAR: It just went to the jury.

CARLON: Oh no kiddin'?

AGUILAR: About three weeks in trial.

NOEL: Three weeks of trial?

AGUILAR: Yeah.

NOEL: Oh boy.

AGUILAR: Well not steady. See I'm . . . they don't try cases on Monday here. They have law and motion. So they don't try cases on Monday and then ah one Friday was a holiday. King Kamehameha's birthday so there was no work that day.

CARLON: That's my son's birthday too. He was born here at Tripler.

AGUILAR: Was he?

CARLON: Yeah.

AGUILAR: Yeah and then one other day um one of the defendants was sick.

CARLON: Mmm.

AGUILAR: Or one of the defense counsel was sick so . . . yeah they don't work too hard around here.

CARLON: (laughs)

NOEL: It's a great pace of life.

AGUILAR: Oh yeah.

NOEL: It's a great pace of life.

CARLON: I ah I was here ah after the Vietnam war our whole squadron pulled out.

AGUILAR: Oh yeah.

CARLON: And ah I was in Kaneohe for three and a half years.

[3]

AGUILAR: Were you in the Marine Corps?

CARLON: Yeah.

AGUILAR: Yeah.

CARLON: Yeah and I tell ya the I cried the day I left here.

NOEL: (laughs)

CARLON: I just loved it so much.

AGUILAR: It's easy duty. It would drive me nuts though. I . . . I couldn't . . .

CARLON: Really?

AGUILAR: . . . no I couldn't . . .

CARLON: Well I was still flyin' so I could fly to the other islands. I could go places, you know?

AGUILAR: Oh yeah that really helps.

CARLON: Get the Maui potato chips and whatever else.  
(laughter)

NOEL: Just what we all . . . just what we all need is Maui potato chips.

AGUILAR: Yeah.

CARLON: Listen let's not take up too much of your time.

AGUILAR: Uh hum.

CARLON: The reason we're here is we do have some . . . since we talked last in . . . in San Jose . . .

AGUILAR: Right.

CARLON: . . . in . . . in early April some allegations ah concerning an individual by the name of Rudy Tham, okay? And I don't know if you know who he is or not . . .

AGUILAR: Oh, I know who he is.

CARLON: Oh you do?

[4]

AGUILAR: Yeah, I mean I know of him.

CARLON: Oh okay.

AGUILAR: You know, I know that he's a union man of some kind.

CARLON: Okay, Rudy Tham ah for your information ah was convicted in I believe 1980 of embezzlement of union funds.

AGUILAR: I know that he was convicted.

CARLON: Okay. And largely through the efforts of Jimmy Frattiano who was a government witness and then there were some corroborating wire taps, he was convicted. He went to . . . I think he went to jail for four months or something. And Judge Weigel was the . . . was the judge the sentencing judge . . . the . . . the one that heard the entire case. What's come to our attention . . . and basically through Abe Chapman and . . . and some of the things that are goin' on with him is that there is an allegation which has surfaced that Abe may have come to you asked about Rudy's case and



then in turn you may have gone to Judge Weigel and attempted to intervene ah whatever about the case. And that's why we're here.

AGUILAR: Okay. Let me ask you, am I some kind of a target?

CARLON: Well uhm I think at this point . . .

AGUILAR: I assume from this . . .

CARLON: . . . I mean . . .

AGUILAR: . . . that I very likely am if I've done anything wrong.

CARLON: Yeah.

AGUILAR: I'll tell you what, I have no problem telling you what I did.

CARLON: Okay.

AGUILAR: I was asked . . . and I am not absolutely positive whether it was from ah from Chapman.

CARLON: Okay.

[5]

AGUILAR: But I was asked to find out about when there would be a hearing on a motion.

CARLON: Okay.

AGUILAR: And nothing more than that.

CARLON: Is this on the Tham matter at all?

AGUILAR: On . . . on Tham. Yeah.

CARLON: Okay.

AGUILAR: There I was told that there was a motion pending and said can you find out when it's going to be on the calendar. And that was

the extent of my quote intervention or my quote re . . . what was requested of me to do.

CARLON: Okay.

AGUILAR: I then two or three weeks after the request was made I was in San Francisco and I asked Weigel in passing when he was gonna have the matter heard on his calendar and he says hell I don't know. You'll have to ask my clerk. Now I don't remember now whether he immediately called the clerk and asked him when it was on the calendar.

CARLON: Oh okay.

AGUILAR: . . . or whether he just told me I don't know. But I never got a date. I never got a date as to when it was going to be on the calendar.

CARLON: Okay.

AGUILAR: Now as to whether I was asked to intervene beyond that . . .

CARLON: Uh huh.

AGUILAR: . . . and . . . and talked to him about the case the answer is no. I have never discussed the merits of the case with him.

CARLON: Okay.

AGUILAR: To my best recollection.

CARLON: All right.

[6]

AGUILAR: I remember reading in . . . in Herb Caen's column about it. And maybe even in the newspaper itself in . . . in the news section. Beyond that no. Did not.

CARLON: How many times did you discuss that with Judge Weigel?

AGUILAR: Just one time.

CARLON: Now do you recall about when that would've been?

AGUILAR: Either late last year or early this year. And I seem to think late last year was . . . no since it . . . it involved merely the asking of . . . of when the thing's on the calendar, you know?

CARLON: Yeah.

AGUILAR: We're asked those questions all the time. Lawyers asking, you know, when is this thing gonna be on the calendar.

CARLON: Oh sure. Sure.

AGUILAR: And I uh and I and I check.

CARLON: Okay.

AGUILAR: But uh to actually . . .

CARLON: (UI).

AGUILAR: . . . discuss the case with him and say hey you how you oughta do this, you oughta do . . . I would never presume to ask another judge that and especially someone like Stanley Weigel.

CARLON: (laughs) Is that right?

AGUILAR: Yeah oh shit he'd go hey get the hell out of here. It's none of your god damn business.

NOEL: (laughs)

AGUILAR: I mean if somebody asked me the same thing . . .

CARLON: Sure.

AGUILAR: . . . don't . . . we don't . . . we just don't dis . . . you know, we discuss cases on a educational level.

[7]

CARLON: Sure. Sure.

AGUILAR: But never personally. And I would never intervene and I don't know this guy Tham.

CARLON: Where . . . where . . . where does the line get drawn on that? Just for my own information.

AGUILAR: Okay. Now if it is say a criminal proceeding . . .

CARLON: Uh hum.

AGUILAR: . . . and it comes to sentencing I might write a letter to a judge.

CARLON: Mmm hmm.

AGUILAR: Say I know this guy and, you know, this is my suggestion. I've done that many times.

CARLON: Uh hum.

AGUILAR: Now . . . but to go up and see one personally before there has been a conviction either by plea of guilty or otherwise I would never go talk to him about it.

CARLON: I see.

AGUILAR: If I was just intellectually interested in the case and not knowing any of the parties and not wanting to convey what I'm gonna learn to 'em . . .

CARLON: For . . . for your own professional enhancement.

AGUILAR: Yeah. I'll go over and . . . I'll go over and discuss it with him.

CARLON: Sure.

AGUILAR: I'll go over and discuss it. Like ah I've gone up to Judge King here and discussed the case I have here the problems say geez can you imagine this is what happened in the courtroom where . . . and . . . and then we bounce things off each other.

CARLON: Sure.

AGUILAR: But to do something as a favor for someone to get the ultimate decision swayed one way or the other I'd never do that.

[8]

CARLON: That's where the line . . .

AGUILAR: And I never have.

CARLON: . . . that's where the line gets drawn.

AGUILAR: Absolutely.

CARLON: Okay.

AGUILAR: And I'd never . . . never do anything like that at all.

CARLON: Okay. Ah what Tham I guess had going was some sort of petition an ah . . . 2255 . . .

AGUILAR: 2255.

CARLON: Oh you . . . okay.

AGUILAR: It was a twenty-two fif- . . . and that's what I asked him when is this 2255 hearing.

CARLON: Okay.

AGUILAR: And what . . . it's merits, you know, that's not something I cared about or discussed.

CARLON: Okay. Did you know ah Rudy Tham's attorney Ed Solomon?

AGUILAR: I've known Ed Solomon since nineteen hundred and fifty-five.

CARLON: Oh, you're kidin'?

AGUILAR: Yeah.

CARLON: Oh.

AGUILAR: I've known him . . . I was in law school with him. He's a very personal friend of my brother's.

CARLON: Oh.

AGUILAR: My brother Jess who's a lawyer.

CARLON: Uh hum.

AGUILAR: They were classmates. And I have from time to time when I was in the city have lunch with him. [9] I . . . when he comes to San Jose he'll call me and we'll have lunch or we'll meet for a drink. When I used to drink. And ah but we are personal friends.

CARLON: I see. I see. Did you know that Solomon was Tham's attorney?

AGUILAR: I have found that out recently.

CARLON: Uh hum.

AGUILAR: I did not know that long ago.

CARLON: How . . . how did you find that out?

AGUILAR: Ah my brother's son told me that his ah that his grandfather . . .

CARLON: Uh huh.

AGUILAR: . . . Chapman wanted to tell me that . . . that the F.B.I. is questioning about my doing something.

CARLON: Oh okay.



AGUILAR: So he's sorry he can't come and see me anymore or can't talk to me anymore.

CARLON: I see.

AGUILAR: And that if ah if I need to know more about it I can call Rudy Tham's attorney Ed Solomon.

CARLON: I see. Okay.

AGUILAR: And I haven't had occasion to call Mister Solomon.

CARLON: Okay. Uh in some of your luncheon meetings with Mister Solomon did he discuss ah the Rudy Tham matter with you at all?

AGUILAR: No. No.

CARLON: Oh. So . . .

AGUILAR: Mostly we talk about another federal judge we know.

CARLON: Oh who's that?

AGUILAR: (UI). Earl Gilliam.  
[10]

CARLON: From San Diego?

AGUILAR: (UI) from San Diego.

CARLON: Oh.

AGUILAR: Yeah we were all friends. The three of us . . .

CARLON: Oh is that right?

AGUILAR: . . . were friends. And ah he's always telling me that he . . . he talked to Earl. Earl calls him maybe every other week.

CARLON: Allrighty. Well I'm . . . we're sorry to put you on alert here like this but you understand that . . .

AGUILAR: Oh, oh of course.

CARLON: . . . that there is a job that has to be done. And the allegations are serious.

AGUILAR: I understand and I understand you're doing your job but I wanna make this very clear.

CARLON: Okay sure.

AGUILAR: I have . . . I don't know Rudy Tham.

CARLON: Okay.

AGUILAR: I don't know him. I've never met him and . . .

CARLON: That was gonna be my next question.

AGUILAR: To the best of my knowledge I have never met him.

CARLON: Okay.

AGUILAR: Um, you know, you know, I wouldn't know him from a load of wood. If he walked in here now I wouldn't know who he was. And I have never had a face-to-face conversation with him. I have never discussed his case.

CARLON: Okay.

AGUILAR: Never discussed his case in any way whatsoever with him. And I have never attempted to have his . . . a decision in his case rendered one way or the other.

[11]

CARLON: Did you know anything about that case at all?

AGUILAR: No. And I still really don't know anything about it.

CARLON: Oh okay.

AGUILAR: I know it involves this guy Frattiano.  
 CARLON: Uh hum.  
 AGUILAR: But, you know, beyond that I don't know anything about it.  
 CARLON: That was pretty much public knowledge . . . I mean that . . . it did get a pretty good splash back in 1980.  
 AGUILAR: I'm sure I read about it. But, you know, to know about it in terms of discussing it with Solomon or with ah Abie . . .  
 CARLON: Uh hum.  
 AGUILAR: Ah no. Or even with a judge I've never discussed it with a judge.  
 CARLON: Would there be something wrong with discussing it with Solomon, do you think?  
 AGUILAR: No.  
 CARLON: But you didn't do that?  
 AGUILAR: No because I'm not . . . um it's not my case.  
 CARLON: Mmm.  
 AGUILAR: It's not my case.  
 CARLON: I see.  
 AGUILAR: I would see nothing wrong with discussing it with him.  
 CARLON: I see. But it . . . the subject never came up?  
 AGUILAR: No. We simply didn't discuss it.  
 CARLON: All right. Let's see here.  
 [12]  
 AGUILAR: Ah if it was my case . . .  
 CARLON: Yeah.

AGUILAR: . . . I would never discuss it.  
 CARLON: Oh that's . . . yeah. That's . . .  
 AGUILAR: You know, I'd never discuss it with him. But out of the presence of the other . . . the other side the government side.  
 CARLON: Okay.  
 AGUILAR: But ah but if it didn't involve me . . .  
 CARLON: I wonder . . .  
 AGUILAR: You know about this case and they start going (UI) then if it gets to a point where they're . . . they're trying to get something from me then I cut it off.  
 CARLON: Oh okay.  
 AGUILAR: If they wanna discuss their case fine they can discuss their case. What I have discussed with Gabe Solomon . . . or Abe Solomon. I call him Gabe 'cause there's a reason. Or it is Gabe. (UI).  
 CARLON: No Ed Solomon.  
 AGUILAR: Ed Solomon. Well there was a Gabe Solomon in our class.  
 CARLON: Oh.  
 AGUILAR: And there's Abe Solomon.  
 CARLON: Oh.  
 AGUILAR: And there's an Abe Joffe. And sometimes I call him Abe Joffe.  
 (laughter)  
 AGUILAR: (UI) made that mistake always. Ah he oh many years ago asked me ah some federal procedural question. I don't even . . .  
 CARLON: Who is this now?

AGUILAR: Ah Solomon.  
[13]  
CARLON: Oh oh.  
AGUILAR: But I don't even . . . he never told me the case.  
CARLON: I see.  
AGUILAR: You know, he just . . . and lawyers will call me for advice like that all the time.  
CARLON: Oh sure. Yeah.  
AGUILAR: And I will give them advice. First I ask them is it a case that's before me. And if it isn't then fine.  
CARLON: Okay.  
AGUILAR: And then I think one other time he ah asked me how to proceed on a um wrongful termination or employment discrimination.  
CARLON: When was . . . when would that have been?  
AGUILAR: Within the last year and a half. And how to frame a complaint. But it . . . it wasn't . . .  
CARLON: What's a wrongful termination like . . .  
AGUILAR: You fire somebody wrongfully.  
CARLON: Oh. Oh I see.  
AGUILAR: When you fire . . .  
CARLON: That's a civil matter, is that what that is?  
AGUILAR: It's a civil matter.  
CARLON: Oh okay.  
AGUILAR: It's a civil matter.  
CARLON: What would he be . . . have asked you about that? Do you recall?

AGUILAR: Well probably what the leading cases are.  
CARLON: Oh I see.  
AGUILAR: Or how to prepare a complaint.  
[14]  
CARLON: I see.  
AGUILAR: I lecture on this stuff so that's why people . . . and a matter of fact today I got a call to lecture I think it's November 14th and 15th on securities fraud. I get . . . and since I've been here I've got three calls. One from ah ah Manny Real the chief judge who wants me to give a lecture ah to the practicing law institute and ah then I got the securities fraud lecture today and then someone from the administrative office called me to give a lecture.  
CARLON: I see.  
AGUILAR: On . . . on judicial ethics.  
CARLON: I see.  
AGUILAR: So I give . . . I give two speeches or lectures on average a week. I give over a hundred a year.  
CARLON: I see.  
AGUILAR: I get these calls also because I do a lot of teaching . . .  
CARLON: Sure.  
AGUILAR: . . . people call me about it.  
CARLON: Sure. Well you I guess you consider that one of your duties (UI).  
AGUILAR: Yeah but . . . I do but people don't call me to intervene.



CARLON: Okay.  
 AGUILAR: And if they do I don't intervene.  
 CARLON: Okay I understand. Ah . . .  
 AGUILAR: I don't know what Judge Weigel said. I don't think he said anything different from what I said but . . .  
 CARLON: Mmm hmm.  
 AGUILAR: That's my recollection. That's what happened in our conversation.  
 [15]  
 CARLON: Okay. Have you talked to Judge Weigel (UI) . . .  
 AGUILAR: I have not and I do not intend to.  
 CARLON: Okay.  
 AGUILAR: If I start to talk to him I know he'd say Bob I don't wanna discuss it with you.  
 CARLON: Mmm.  
 AGUILAR: So I don't know what he said.  
 CARLON: Okay.  
 AGUILAR: He wouldn't tell me and I wouldn't approach him.  
 CARLON: Okay.  
 AGUILAR: As far as I'm concerned I didn't do anything wrong.  
 CARLON: Okay.  
 AGUILAR: I merely wanted to find out a date for a hearing.  
 CARLON: And this was Tham's 2255?  
 AGUILAR: The 2255.  
 CARLON: Would that have been an evidentiary hearing?

AGUILAR: I have no idea.  
 CARLON: Okay.  
 AGUILAR: They don't have to be evidentiary hearings. They can be submitted on the papers without any testimony.  
 CARLON: Oh.  
 AGUILAR: And just arguments. So I don't know which way he was . . .  
 CARLON: I see.  
 AGUILAR: . . . gonna proceed.  
 CARLON: Would there have been oral arguments in this one?  
 AGUILAR: I have no idea.  
 [16]  
 CARLON: Okay.  
 AGUILAR: All I know is . . .  
 CARLON: I'm not tryin' to trick you. (laugh)  
 AGUILAR: . . . it never got . . . no it never got set.  
 CARLON: I see.  
 AGUILAR: And I never found . . . I says I'm sorry I . . . he doesn't know.  
 CARLON: Okay. Not to beat a dead horse but when we first asked you about this you said that you may have possibly been asked by Chapman to go find out about . . .  
 AGUILAR: It may have been him who asked me or it may have even been Solomon but I don't think it was Solomon because I never discussed it with Solomon.  
 CARLON: Okay.

AGUILAR: But ah but um ah Abe Chapman may have asked me. There had to be a reason why I wanted to know.

CARLON: Uh hum.

AGUILAR: And it may have been that . . . that Abie asked me.

CARLON: Okay. All right. Let me stop it here a little bit. Let me tell you something that . . . that we've done with him that seems a little bit out of the ordinary to us but may not be to you and maybe you can explain it a little bit. We have had surveillances of Abe Chapman as you know as we discussed the last time.

AGUILAR: Oh yeah you showed me pictures of him at my house.

CARLON: Yeah.  
(laughter)

CARLON: Um there have been times when he has left his house, gone to a pay phone on Railroad Avenue . . .

AGUILAR: Uh hum.  
[17]

CARLON: . . . called and gone back to his house. And when we received the records from Pacific Bell we noticed on one occasion . . . I forget the date . . . he called your house I think . . .

AGUILAR: Did he talk to me? I don't know.

CARLON: I don't know.

AGUILAR: He has called me but I don't know whether he's called from a pay phone. I don't know where he calls me from.

CARLON: Okay well and then . . .

AGUILAR: He's called me on the road I know. because he'll call me before he comes over. And that's about the only time he ever calls me. That I've talked to him.

CARLON: Okay. Ah he's also called your chambers.

AGUILAR: Um he has called me one or . . .

CARLON: (UI).

AGUILAR: . . . and reached me once. Once he reached me.

CARLON: One time?

AGUILAR: One time he reached me.

CARLON: Okay.

AGUILAR: And the other times he, you know, wasn't there.

CARLON: Okay.

AGUILAR: I wasn't there.

CARLON: I can't remember that. (UI) What that suggests to me um, you know, and I . . . maybe I'm being a little bit more inquisitive than I should be or reading something into it . . .

AGUILAR: You can ask anything you want.

CARLON: But guys that do that are tryin' to hide something. Ah and they suspect perhaps that their phones are tapped. I don't know. I've seen that happen a lot.

[18]

AGUILAR: Well he can't have learned that from me because I don't . . . I don't know anything about that.

CARLON: Okay well that was gonna be my question. Did you ever learn anything about any wire tapping?

AGUILAR: (UI) I have no way of knowing that.

CARLON: Okay.

AGUILAR: I don't have no way of knowing that. Whenever I sign a wire tap order I'm the only one who knows it and the guy to whom I give the order.

CARLON: Okay.

AGUILAR: If it's learned it's learned from the guy I gave the order to. I'm . . . I never . . . I don't even tell my staff.

CARLON: Okay. Did you ever find out or learn of any wire tap order on Abe Chapman (UI)?

AGUILAR: No.

CARLON: Okay. I mean his conduct just kind of suggested that he was being real careful.

AGUILAR: He . . . everything he does and acts as long as I've known him has always been very clandestine.

CARLON: (laughs) Okay.

AGUILAR: (UI) . . .  
(laughter)

AGUILAR: . . . shit I don't know what the hell he's doin'.

CARLON: He went to trial the other day (UI).

AGUILAR: Did he go to tri . . . he's in trial?

CARLON: Funny story.

AGUILAR: Yeah you had told me that they . . . they re-indicted him or someone said he was . . .

CARLON: No he was . . .

AGUILAR: The court reversed it you said.  
[19]

NOEL: Uh hum.

CARLON: I think there were there were that there were several points that Judge Orrick had thrown out and that were overturned by the Ninth Circuit so it's been . . . it's been lingering and I'm not totally familiar with the whole case.

AGUILAR: Has the jury returned?

CARLON: Oh, no they (laughing). That's what I was gonna tell ya. They they didn't even get past pickin' the uh jury. They were at voir dire at uh uh somebody recognizes one of the defendants halfway through after (UI).

AGUILAR: One of the jurors did?

CARLON: One of the jurors said oh I know that guy wasn't he the subject of a sexual discrimination suit?  
(laughter)

CARLON: And everybody kind of went . . .

AGUILAR: Oh my god there we've got another mistrial.

CARLON: So it was . . . it was kind of funny we all laughed. And ah Mister Chapman was out in the hall and I went out and talked to him a little while and . . . and he said ah well I . . . I don't hold anything against you



(UI). I said well you better not (UI). He is a . . . he is a character he really is and he does . . . he, you know, poor guy he's eighty-some-odd years old I guess. Okay but . . . but his conduct . . . gettin' back to that . . . to me suggested that he might be ah fearful at least that his phones were tapped.

AGUILAR: Well that seems reasonable to me. (UI) fear of that geez.

CARLON: (UI) and once again I had to ask the question . . .

AGUILAR: (UI) not from me 'cause I . . . I don't have that knowledge.

CARLON: Okay. If you did would you ever tell him?

AGUILAR: No.

CARLON: Okay. Allrighty. Anything you wanna ask of us?

[20]

AGUILAR: Well I did ask you that one question, if I'm the target?

CARLON: Well certainly some of this evidence is pointing in your direction and I'd have to say yes, you know, um there is a Grand Jury meeting. Convening I guess that's the correct word. (laughs) Um some evidence will be heard I'm . . . I'm sure on this issue.

AGUILAR: But is there a Grand Jury convened to determine whether or I'm . . . I'm not I in some way I . . .

CARLON: I don't know if I can tell you that. I mean what's . . . is there a 6(e) rule prohibiting me from telling you that? I don't know.

AGUILAR: You're not supposed to tell anyone ah what a Grand Jury is meeting about.

CARLON: Okay so . . .

AGUILAR: So you can't tell me if I'm . . .

CARLON: Okay good.

AGUILAR: . . . if you're seeking indictment against me or if the U.S. Attorney's seeking indictment against me.

CARLON: Why don't we just leave it at that then?

AGUILAR: Okay.

CARLON: If you have any questions ah you can call me. I'll leave you . . . leave you my card. Okay?

AGUILAR: All right.

NOEL: I left you my card last time, so you've got mine. Yeah.

AGUILAR: Yeah I . . . I obviously I'm concerned now.

CARLON: Uh hum.

AGUILAR: You know, obviously I'm concerned.

CARLON: Well I can . . . I can appreciate that.

AGUILAR: But um . . .

[21]

CARLON: And I don't know what to tell you. I don't know whether to try to allay your fears or to perk you up. Obviously we came to Honolulu to see you. Um . . .

AGUILAR: Yeah (UI) this is a matter that uh (UI).

CARLON: It didn't take a whole lot of creative writing, you know, even though I used to live here.

(laughter)

CARLON: All right?

AGUILAR: But I mean obviously I'm concerned that ah that, you know, there . . . there's gonna be some . . . perhaps be a Grand Jury's gonna meet to determine whether or not they should return some indictment again . . . against me for obstructing justice . . .

CARLON: Okay.

AGUILAR: . . . in any but I know what obstructing justice is and . . .

CARLON: Well you said you're . . . you're not guilty of anything so . . .

AGUILAR: Right and I'm not guilty . . .

CARLON: Okay.

AGUILAR: Of . . . of any wrongdoing. So I'm not . . .

CARLON: Yeah.

AGUILAR: You know, in my own mind I'm not worried but . . .

CARLON: Okay.

AGUILAR: . . . necessarily there's some . . . some . . . concern.

CARLON: Okay. Well if we can keep the Grand Jury proceedings secret and um . . .

AGUILAR: That's the way they should be.

CARLON: . . . you know, maybe it'll go away.

AGUILAR: Uh huh.

CARLON: I mean that's I guess what you would hope for.

[22]

AGUILAR: Of course a lot depends on what ah what Judge uh Weigel has to say.

CARLON: Mmm.

AGUILAR: I . . . I feel like I wanna ask him and talk to him about that.

CARLON: Yeah I can appreciate that.

AGUILAR: But I . . . I don't . . . I don't think I should talk to him. I have no intention to.

CARLON: Okay.

AGUILAR: I, I had decided when you guys came to me the first time that as far as . . . as what's-his-name was concerned . . . Abie . . . I wasn't gonna talk to him and I have not.

CARLON: Mmm.

AGUILAR: And now that you bought this up which is an entirely different thing from what you talked to me about the first time.

CARLON: Well that's kind of funny. I . . . I think I did ask you a general question about . . .

AGUILAR: Well you asked me if I had intervened on his behalf.

CARLON: Right.

AGUILAR: In any case.

CARLON: I did.

AGUILAR: And I've never intervened on his behalf in any case.

CARLON: Okay.

AGUILAR: And now you're asking an entirely different question.

CARLON: Right.

AGUILAR: As to whether I have intervened on behalf of some Rudy Tham, whom I don't know.

[23]

CARLON: Okay.

AGUILAR: And the answer to that is clearly no.

CARLON: Okay great. I um . . .

AGUILAR: And the other one's still the same no.

CARLON: I did ask you a general question about would you intervene on . . . on Abie's behalf or anybody I mean on . . . on any of Abie's friends. I think we discussed Michael Rizzitello and . . .

AGUILAR: (UI) name.

CARLON: And some of these other characters that . . .

AGUILAR: I don't think you asked me that.

CARLON: Okay.

AGUILAR: But ah if you had my answer would sure . . .

CARLON: Sure.

AGUILAR: . . . have been the same as it is now. No.

CARLON: Okay. Okay great.

NOEL: What . . . what is Rudy's . . . ah what is Abie's relationship with Rudy Tham?

AGUILAR: I have no idea.

CARLON: Okay.

AGUILAR: I have no idea. All I know is he asked me about this to find out when his 2055 . . . 2255 . . .

NOEL: Okay that and then . . . right.

AGUILAR: . . . would be heard. He said he said do you have any way of know when a . . . a case'll be heard. And I says yeah check the calendar.

NOEL: Well sure.

AGUILAR: Which I did do. I checked the calendar there was nothing so then I asked . . .

[24]

NOEL: But you . . . you aren't aware of any relationship between Abie and Rudy Tham of . . . of . . . I mean it's not like . . .

AGUILAR: Not other than they know each other.

NOEL: Okay but I, you know, they're not like shirttail relatives or . . . or anything of that nature?

AGUILAR: No.

NOEL: Okay.

CARLON: All right. Well we'll leave you alone. How's that?

AGUILAR: Well that's fine.

CARLON: Where you been goin' out to dinner around here?

AGUILAR: You gonna leave me in a good condition? (laughter)

AGUILAR: Well, last night I ate dinner in.

CARLON: Mm.

AGUILAR: The previous night ah I went out to dinner at ah Kobe.

CARLON: Uh hum.

AGUILAR: Which is that little steak house across next to the Ilikai.

CARLON: Uh hum.

AGUILAR: And then a couple of evenings before that I went to High Steak House and tonight I'm gonna go to the Golden Dragon.



CARLON: Oh good. Um . . .

AGUILAR: I eat in every other night.

CARLON: Have you been over to the Windward side at all over there?

AGUILAR: Not to eat. I drove around there.

CARLON: Um . . .

[25]

AGUILAR: We were there Sunday. We went . . . the whole staff. I took the whole staff up there to . . .

CARLON: Okay.

AGUILAR: . . . to . . . to Judge Complin's home for dinner Sunday night.

CARLON: Oh how neat. There's a great place over there. I mean it's . . . it's simple but it . . . the setting is really neat. It's called Buzz's Steak House. It's not the one . . .

AGUILAR: Oh yeah I know where Buzz's Steak House is.

CARLON: In Lanakai.

AGUILAR: The one in the hotel?

CARLON: No no. No no this is over in Lanakai on the Windward side. Right on the beach.

AGUILAR: Yeah but that's a hotel next to it.  
(laughter)

AGUILAR: There're about (UI) yeah there's this apartment house or hotel right there.

CARLON: This is over by Kailua.

AGUILAR: Yeah by Kailua yeah.

CARLON: Then you make a right and you go down. They built an apartment house there?

AGUILAR: Well it's been there for years.

CARLON: Oh.

AGUILAR: The original Buzz's was there. Then they have two or three other Buzz's.

CARLON: Oh I know they got one in Kaimuki I think and . . .

AGUILAR: Yeah.

CARLON: . . . (UI).  
[26]

AGUILAR: But that ah original one is right next to the hotel. It's a hotel. I forget the damn name of it. I just drove by it ah Saturday afternoon.

CARLON: Oh. Oh. Well I love that place. I really eat there.

AGUILAR: Yeah that Buzz's steak house . . . and then he makes those mixes for mai tais.

CARLON: Oh does he? Well stay away from those.  
(laughter)

AGUILAR: I don't drink. I . . . I haven't consumed alcohol for over five years.

CARLON: Oh is that right?

AGUILAR: I'm diabetic so I don't do that.

CARLON: Oh that's . . .

AGUILAR: You know?

NOEL: Mm boy yeah.

CARLON: Well listen we're not gonna . . .

AGUILAR: Well I miss the fact that I can't even get any more Italian sausage from Mrs. Knaack.  
(laughter)

CARLON: Well don't worry about that. Go get it.  
 NOEL: You can get some good Portuguese sausage here.  
 CARLON: Where does she get that by the way, do you know?  
 AGUILAR: I have no idea. I have no idea.  
 CARLON: All right. Well listen thanks for your time.  
 AGUILAR: As you can see my conversations with him aren't very long, you know, and my and my visits with him aren't very long. He'll call me and say well I saw your mother and father they're fine goodbye.  
 (laughter)  
 AGUILAR: And that's it.  
 [27]  
 NOEL: That's the way he drives the car too.  
 AGUILAR: Oh he's a maniac with the car. Thank you very much.  
 NOEL: Well thank you.  
 CARLON: Thanks for your time (UI).  
 AGUILAR: Okay (UI).  
 NOEL: We appreciate it and have a . . . how long will you be here?  
 AGUILAR: 'Til ah June 30th.  
 NOEL: Oh golly that's nice, that's nice.  
 AGUILAR: Yeah.  
 CARLON: It's a good deal.  
 AGUILAR: We . . . we finished . . . we're gonna finish this case when the jury comes out but I've got another one. I've got two ah kilos of

cocaine and a motion to suppress that I'm working on right now.  
 CARLON: Oh okay.  
 NOEL: Well thank you for your time.  
 AGUILAR: So long.  
 NOEL: Okay. Bye. Thank you.  
 CARLON: Thank you.  
 AGUILAR: So long.

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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No. CR. 89-365 LCB

UNITED STATES OF AMERICA, PLAINTIFF

v.

ROBERT P. AGUILAR, DEFENDANT

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VIOLATIONS:

18 U.S.C. § 371—Conspiracy to defraud the United States; 18 U.S.C. § 1503—Corrupt endeavor to influence due administration of justice; 18 U.S.C. § 2232(c)—Giving notice of electronic surveillance with intent to impede interception

INDICTMENT

THE GRAND JURY CHARGES THAT:

INTRODUCTION

1. Since on or about June 18, 1980, defendant ROBERT P. AGUILAR has been a United States District Judge for the Northern District of California.

2. Beginning in July 1987, and at subsequent times relevant to this indictment, defendant MICHAEL RUDY THAM had a motion, brought [2] pursuant to Section 2255 of Title 28, United States Code, and Rule 33 of the Federal Rules of Criminal Procedure, pending before the United States District Court for the Northern District of California in case No. Cr. 79-0349 (hereinafter referred to as the § 2255 matter). By this motion, defendant THAM sought to overturn his 1980 conviction in the Northern District of California for embezzling union funds and making false entries in union records, in violation of Title 29, United States Code, Sections 439(c) and 501(c). Defendant THAM expected to gain reinstatement to a position as an official in the Teamsters Union and to gain at least \$200,000.00 if his conviction were overturned.

COUNT ONE

*The conspiracy and its objects*

1. Paragraphs one and two of the introduction to this indictment are incorporated herein as though set forth in full.

2. From in or about the spring of 1987, the exact date being unknown to the grand jury, until on or about May 4, 1988, in the Northern District of California, defendants,

ROBERT P. AGUILAR  
ABE CHAPMAN  
MICHAEL RUDY THAM

and others known to the grand jury, did unlawfully, willfully, and knowingly combine, confederate, and agree among themselves:

A. to defraud the United States of its governmental functions and rights:

a) by impeding, impairing, defeating, and [3] obstructing the function and right of the United States De-



partment of Justice and the Federal Bureau of Investigation (FBI) to conduct criminal investigations free from corrupt, disloyal, and dishonest disclosures of law enforcement information, revealed by defendant AGUILAR to warn the co-conspirators of physical and electronic surveillance being conducted by the Federal Bureau of Investigation.

b) by impeding, impairing, defeating, and obstructing the function and right of the United States District Court for the Northern District of California to exercise the judicial power and to have the business of the court conducted honestly, impartially, and with integrity, free from improper and undue influence, favoritism, bias, dishonesty, corrupt approaches to judges of the court, and the improper disclosure of confidential information.

c) by depriving the United States and the United States District Court for the Northern District of California of the dutiful, faithful, conscientious, loyal, honest, and impartial service of the defendant AGUILAR as a judge of the United States District Court for the Northern District of California.

B. to commit an offense against the United States: that is, to corruptly endeavor to influence, obstruct, and impede the due administration of justice, in violation of Section 1503 of Title 18, United States Code, by making use of defendant AGUILAR's access to and influence with United States District Judge Stanley [4] A. Weigel to obtain for defendant MICHAEL RUDY THAM an evidentiary hearing in THAM's § 2255 matter, which was pending before Judge Weigel.

*Manner and means of the conspiracy*

3. It was a part of the conspiracy that defendant AGUILAR would disclose to the co-conspirators law enforcement information affecting the interests of the co-conspirators. This included information that an agent of

the Federal Bureau of Investigation was conducting physical surveillance of defendant CHAPMAN, and also included information concerning court-ordered electronic surveillance of defendant CHAPMAN.

4. It was further a part of the conspiracy that the conspirators would conceal the true nature of their dealings with each other by several means, including using code words and aliases, communicating with one another by using pay telephones and other clandestine means, and warning each other of law enforcement surveillance.

5. It was further a part of the conspiracy that defendants THAM and CHAPMAN would seek and receive advice and guidance from defendant AGUILAR concerning the matter THAM had pending before the United States District Court for the Northern District of California, in order to increase defendant THAM's chances of prevailing. This advice and guidance was based on defendant AGUILAR's review of legal papers filed and proposed to be filed before the court and on defendant AGUILAR's access to and influence [5] with Judge Weigel.

6. It was further a part of the conspiracy that defendants THAM and CHAPMAN would offer to find and would find employment for defendant AGUILAR's brother, Luis "Lou" Aguilar, and would inform defendant AGUILAR that they had done so.

7. It was further a part of the conspiracy that defendant AGUILAR would approach Judge Weigel, the judge handling the § 2255 matter, and endeavor to use defendant AGUILAR's access to and influence with Judge Weigel to help defendant THAM obtain an evidentiary hearing, and thereby to increase defendant THAM's chances of winning the § 2255 matter.

*Overt Acts*

8. The grand jury charges that in furtherance of the aforesaid conspiracy and to accomplish the objects thereof, the defendants did commit the following overt acts:

(1) Between on or about July 21, 1987, and October 2, 1987, the exact date being unknown to the grand jury, defendants CHAPMAN and AGUILAR met at defendant AGUILAR's residence in Campbell, California, with Edward Solomon and Linda Offner, the attorneys representing defendant THAM in the § 2255 matter. At the meeting, defendant AGUILAR advised Solomon and Offner to seek an evidentiary hearing in order to bring the matter to the attention of the judge handling the case, Judge Stanley A. Weigel.

(2) In or about August 1987, the exact date being unknown to the grand jury, defendant AGUILAR provided defendant CHAPMAN with [6] information, which defendant AGUILAR had learned from another judge, concerning court-ordered electronic surveillance involving defendant CHAPMAN.

(3) On or about September 15, 1987, defendant AGUILAR informed Solomon that he had spoken to Judge Weigel about the § 2255 matter.

(4) On or about October 1, 1987, after Judge Weigel had dismissed THAM's § 2255 motion on technical grounds, defendant CHAPMAN told defendant THAM that he would talk to defendant AGUILAR to find out what had gone wrong.

(5) On or about October 22, 1987, defendant AGUILAR advised Solomon on how to proceed in the § 2255 matter, and, the same day, Solomon filed a motion for reconsideration of the ruling dismissing the matter.

(6) On or about October 23-24, 1987, defendants THAM and CHAPMAN arranged to deliver legal papers to defendant AGUILAR.

(7) On or about October 26, 1987, defendants THAM and CHAPMAN instructed Solomon to call defendant AGUILAR in Colorado.

(8) On or about October 30, 1987, the day after Judge Weigel granted defendant THAM's motion for reconsideration, defendant THAM told defendant CHAPMAN that he would handle getting a job for defendant AGUILAR's brother, Lou Aguilar.

(9) On or about November 17, 1987, defendant THAM called Gerald Carbone, the Recording Secretary for Teamsters Local #853, and asked him to help get a job for Lou Aguilar. Defendant THAM told Carbone that Lou Aguilar's brother was a federal judge who had [7] been helpful to a lot of people.

(10) On a date in or about November or December 1987, but not after December 16, 1987, the exact date being unknown to the grand jury, defendant AGUILAR spoke to Judge Weigel about the § 2255 matter.

(11) On or about December 16, 1987, defendant AGUILAR reported to Solomon that he had talked to Judge Weigel concerning the § 2255 matter.

(12) On or about December 21, 1987, defendant CHAPMAN told defendant THAM that defendant AGUILAR had said that when defendant THAM won he would get back his job and all the money he had lost.

(13) On or about January 4, 1988, defendant CHAPMAN reported to defendant THAM that defendant AGUILAR had helped Judge Weigel make arrangements for a trip to Mexico and had asked Judge Weigel to take care of defendant THAM.

(14) On or about January 12 or January 19, 1988, the exact date being unknown to the grand jury, defendant AGUILAR spoke to Judge Weigel about the § 2255 matter.



(15) On or about January 21, 1988, defendant AGUILAR reported to Solomon that he had mentioned the § 2255 matter briefly to Judge Weigel and that Judge Weigel did not know what was pending on it. Defendant AGUILAR advised Solomon to file a request to set a hearing in the matter, because defendant AGUILAR had done as much as he could do without causing Judge Weigel to become angry.

(16) On or about January 24, 1988, defendant CHAPMAN reported [8] to defendant AGUILAR that Lou Aguilar was working, and said that "next month we'll put him" in another job. In the same conversation, defendant AGUILAR told defendant CHAPMAN that he had advised Solomon to request that a hearing be set in the § 2255 matter.

(17) On or about January 29, 1988, defendant THAM instructed defendant CHAPMAN to tell defendant AGUILAR that defendant THAM wanted to win the § 2255 matter "as quick as possible now."

(18) On or about February 6, 1988, defendant CHAPMAN met defendant AGUILAR at defendant AGUILAR's residence. A few minutes after defendant CHAPMAN left defendant AGUILAR's residence, defendant AGUILAR instructed his nephew to visit defendant CHAPMAN immediately and inform him that defendant CHAPMAN was being followed by the FBI. Defendant AGUILAR also informed his nephew that defendant AGUILAR knew that defendant CHAPMAN's telephone was wiretapped because defendant AGUILAR had learned about the wiretap at work.

(19) On or about February 16, 1988, defendant CHAPMAN reported to defendant THAM that defendant AGUILAR had said he had discussed the § 2255 matter with Judge Weigel four or five times and that defendant CHAPMAN should forget it and not worry about it.

(20) On or about February 19, 1988, defendant CHAPMAN, using the alias "Dr. Green," left a message at defendant AGUILAR's chambers for defendant AGUILAR to call him.

(21) On or about March 1, 1988, defendant AGUILAR told Solomon [9] that defendant AGUILAR had seen the FBI following defendant CHAPMAN. Defendant AGUILAR said that he knew the person following defendant CHAPMAN to be "an FBI man."

(22) Later the same day, when Solomon reported to defendant THAM that defendant CHAPMAN was being followed by the FBI, defendant THAM said that he would stay away from defendant CHAPMAN.

(23) On or about March 2, 1988, defendant CHAPMAN, using the alias "Dr. Green," called defendant AGUILAR's chambers. Defendant AGUILAR said that he had spoken with Solomon and that Solomon would file a motion to have a hearing date set. In the same conversation, defendant CHAPMAN reported that Lou Aguilar would be at a better job after this thing was over. Defendant AGUILAR replied that he was glad to hear that.

(24) On or about March 4, 1988, defendant THAM cut short a telephone conversation with defendant CHAPMAN, saying that defendant CHAPMAN was hot.

(25) On or about March 16, 1988, defendant THAM told defendant CHAPMAN that his probation officer had received information that he was associating with convicted felons and that she was considering informing Judge Weigel about it. Defendant THAM then asked defendant CHAPMAN to "drop" this question to defendant AGUILAR.

(26) On or about March 18, 1988, defendant AGUILAR advised defendant CHAPMAN about defendant THAM's probation problem and about the § 2255 matter.



(27) On or about March 28, 1988, defendant CHAPMAN, using the [10] alias "Dr. Green," called defendant AGUILAR at his chambers. Defendant CHAPMAN informed defendant AGUILAR that they were trying to put his brother in another job. In the same conversation, defendant CHAPMAN told defendant AGUILAR that getting the hearing on the § 2255 matter was "so important." Defendant AGUILAR said that he would "see why they don't set it" for hearing.

(28) On the same date, shortly after speaking with defendant AGUILAR, defendant CHAPMAN reported to defendant THAM that defendant AGUILAR was going to find out why the hearing had not yet been set.

(29) On or about April 4, 1988, defendant CHAPMAN reported to defendant THAM that defendant AGUILAR appreciated what defendant THAM had done for his brother.

(30) On or about April 12, 1988, defendant AGUILAR told defendant CHAPMAN that he had not talked with the judge. Defendant AGUILAR said that he was going to be in San Francisco the following Tuesday and would "see if we can get a date set right away, to get it done one way or the other."

(31) On or about April 20, 1988, defendant AGUILAR told Solomon that he had spoken to Judge Weigel, and that Judge Weigel had said he would rule in due course.

(32) On or about May 4, 1988, after Judge Weigel had disqualified himself from the § 2255 matter, defendant THAM asked Solomon if defendant AGUILAR was going to "check into" the new judge assigned to the case.

[11] All in violation of Title 18, United States Code, Section 371.

#### COUNT FOUR

In or about August 1987, the exact date being unknown to the grand jury, in the Northern District of California, defendant,

#### ROBERT P. AGUILAR

while a United States District Judge, having knowledge that a Federal investigative officer had applied to the United States District Court for the Northern District of California for authorization to intercept wire communications of Abe Chapman, and in order to obstruct, impede, and prevent such interception, gave notice and attempted to give notice of the possible interception to Abe Chapman.

In violation of Title 18, United States Code, Section 2232(c).

#### COUNT SIX

On or about February 6, 1988, in the Northern District of California, defendant,

#### ROBERT P. AGUILAR

while a United States District Judge, having knowledge that a Federal investigative officer had applied to the United States District Court for the Northern District of California for authorization to intercept wire communications of Abe Chapman, and in order to obstruct, impede, and prevent such interception, gave notice and attempted to give notice of the possible interception to Abe Chapman.

In violation of Title 18, United States Code, Section 2232(c).

[12]

**COUNT SEVEN**

1. At all times relevant to this count of the indictment, defendant AGUILAR was aware that a federal grand jury in the Northern District of California was investigating possible violations of federal criminal law by ROBERT P. AGUILAR, Abe Chapman, Michael Rudy Tham, and others.

2. On or about May 26, 1988, defendant

**ROBERT P. AGUILAR**

while a United States District Judge, did corruptly endeavor to influence, obstruct, and impede the aforementioned grand jury investigation, and thus the due administration of justice in the Northern District of California, by advising Edward Solomon to lie about Solomon's relationship with defendant ROBERT P. AGUILAR and about defendant ROBERT P. AGUILAR's activities on behalf of Michael Rudy Tham.

In violation of Title 18, United States Code, Section 1503.

**COUNT EIGHT**

1. At all times relevant to this count of the indictment, defendant AGUILAR was aware that a federal grand jury in the Northern District of California was investigating possible violations of federal criminal law by ROBERT P. AGUILAR, Abe Chapman, Michael Rudy Tham, and others.

2. On or about June 22, 1988, defendant

**ROBERT P. AGUILAR**

[13] while a United States District Judge, did corruptly endeavor to influence, obstruct, and impede the aforementioned grand jury investigation, and thus the due administration of justice in the Northern District of California, by making false and misleading statements to

Special Agents of the Federal Bureau of Investigation concerning defendant AGUILAR's assistance to Michael Rudy Tham and concerning defendant AGUILAR's assistance to Michael Rudy Tham and concerning defendant AGUILAR's knowledge and disclosure of information concerning court-ordered electronic surveillance of Abe Chapman.

In violation of Title 18, United States Code, Section 1503.

**A TRUE BILL**

Dated: June 13, 1989

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**FOREPERSON**

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

---

No. CR-89-365 LCB

UNITED STATES OF AMERICA, PLAINTIFF

v.

ROBERT P. AGUILAR, ABE CHAPMAN AND  
MICHAEL RUDY THAM, DEFENDANTS

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[Filed Jan. 22, 1990]

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**GOVERNMENT'S CORRECTED BILL OF PARTICULARS CONCERNING COUNTS FOUR AND SIX OF THE INDICTMENT**

Count Four of the indictment charges that:

In or about August 1987, the exact date being unknown to the grand jury, in the Northern District of California, defendant, ROBERT P. AGUILAR while a United States District Judge, having knowledge that a Federal investigative officer had applied to the United States District Court for the Northern District of California for authorization to intercept wire communications of Abe Chapman, and in order to obstruct, impede, and prevent such interception, gave notice and attempted to give notice of the possible interception to Abe Chapman.

In violation of Title 18, United States Code, Section 2232(c).

**BILL OF PARTICULARS:**

(1) On April 20, 1987, the United States applied to the United States District Court for the Northern District of California for authorization to intercept telephone conversations of Abe Chapman, Michael Rudy Tham and others, over Tham's telephones. The wiretap concluded in May 1987, and, on July 15, 1987, the authorizing judge, Chief Judge Robert Peckham, signed an order postponing the service of inventories from the April wiretap for ninety days.

(2) On or about August 5, 1987, the Special Agent in Charge of the San Francisco F.B.I. office, Richard Held, told Chief Judge Peckham, in substance, that state investigators surveilling Chapman had observed Chapman in company with defendant Aguilar and a third man. Mr. Held told the Chief Judge, in substance, that defendant Aguilar was not a subject or a target of the Chapman investigation.

(3) On or about August 9, 1987, Chief Judge Peckham mentioned, in substance, to defendant Aguilar, as a word to the wise, that Chapman's name had come up in connection with a wiretap application.

(4) Very shortly after this conversation, defendant Aguilar asked his nephew, Steve Aguilar, in substance, to tell Chapman not to call defendant Aguilar, because Chapman's phone might be tapped.

Count Six of the indictment charges that:

On or about February 6, 1988, in the Northern District of California, defendant ROBERT P. AGUILAR while a United States District Judge, having knowledge that a Federal investigative officer had applied to the United States District Court for the Northern District of California for authorization to



intercept wire communications of Abe Chapman, and in order to obstruct, impede, and prevent such interception, gave notice and attempted to give notice of the possible interception to Abe Chapman.

In violation of Title 18, United States Code, Section 2232(c).

#### **BILL OF PARTICULARS:**

(1) On or about August 9, 1987, defendant Aguilar learned of Chapman's name in connection with a wiretap application.

(2) On July 15, 1987 and November 13, 1987, Chief Judge Peckham signed orders postponing the service of inventories from the April 1987 wiretap.

(3) On or about February 6, 1988, an F.B.I. surveillance team followed Chapman to defendant Aguilar's house in San Jose. As Chapman was leaving, defendant Aguilar noticed an F.B.I. agent observing the meeting.

(4) Minutes later, defendant Aguilar telephoned his nephew, Steve Aguilar, and asked him to come over right away.

(5) Defendant Aguilar asked Steve Aguilar, in substance, to tell Chapman that Chapman was being followed by the F.B.I., and again told Steve Aguilar, in substance, that Chapman's phone might be tapped.

(6) Steve Aguilar told Chapman, in substance, about the F.B.I. surveillance and that Chapman's phone might be tapped.

(7) Shortly after Steve Aguilar returned to his house, after telling Chapman, defendant Aguilar telephoned his nephew again. Defendant Aguilar asked Steve Aguilar to come over to defendant Aguilar's house. When Steve

Aguilar arrived, defendant Aguilar asked, in substance, if he had passed the information on to Chapman, and Steve Aguilar said he had.

Respectfully submitted,

/s/ Sara M. Lord  
RALPH DRURY MARTIN  
SARA M. LORD  
Trial Attorneys

WILLIAM A. KEEFER  
Deputy Chief  
Public Integrity Section

Attorneys for the United States

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA

No. CR. 89-0365 LCB

UNITED STATES OF AMERICA, PLAINTIFF

v.

ROBERT P. AGUILAR, DEFENDANT

Transcript of Proceedings – August 14, 1990  
VOLUME 10

\* \* \* \* \*

Now, the second disclosure occurs on February 6th, 1988, the sequence of events there is well-known to you. Judge Aguilar makes the surveillance and he immediately calls his nephew to come over to the house.

He doesn't call Marilyn Aguilar, he says it's because he doesn't have the number, but he doesn't say to Steve Aguilar what's your mother's number, nor does he say to Steve Aguilar call your mother and relay this message. No, he asks Steve Aguilar to come over right away. It's very, very urgent, I can't talk over the phone, I need to get a message to your grandfather.

Now, at this point rule out the notion that the purpose of this call was to warn Abie Chapman about his driving. Think [1435] that one through. The claim is Abie Chapman almost caused an accident. Why would it be so important to get to Abie Chapman to tell him that he had almost caused an accident ten minutes earlier and, yeah, couldn't that information be relayed over the phone.

The whole point of that call was to have Steve Aguilar come over to Judge Aguilar's house to relay confidential information to Steve Aguilar and then to make sure that Steve Aguilar relayed the information in person to Abie Chapman. The whole point of that call was to make sure that the disclosure was absolutely surreptitious.

Now, Steve Aguilar arrives and Judge Aguilar tells him "Abie Chapman is being followed by the FBI and I overheard as a fluke at work that his phones may be tapped."

Let's break that up into two disclosures: One, there's a disclosure that Abie Chapman is under physical surveillance by the Federal Bureau of Investigation. Two, there's the disclosure that he's under electronic surveillance.

Now, dealing with the physical disclosure. Judge Aguilar said it was the FBI and he meant to say it was the FBI. That's what he told Steve Aguilar, he said it was the FBI. He told Ed Solomon three weeks later it was the FBI and he told Ed Solomon on May 17th that it was the FBI, he also believed it was the FBI.

The only time that he vacillates on that and says it [1436] was a policeman is here in court where he's charged with interfering with the function of the Federal Bureau of Investigation to conduct investigations. The whole point is to suggest that if he thought it was just the police then maybe he couldn't have obstructed the FBI.

There's one other purpose by saying that it's the police, it allows him to tell you about a speech that he made that infuriated various police chiefs and law enforcement officers. The only person who talks about the police is Judge Aguilar.

Now, he told Steve Aguilar it was the FBI and he says to you that he thought it was because the FBI was after him. In 1983 Judge Aguilar ruled that the FBI had to turn over



their personal files of its agents.

The government appealed to the Ninth Circuit Court of Appeals. The Court of Appeals ruled that Judge Aguilar abused his discretion, that he was wrong. Judge Aguilar's decision did not stand.

MR. MELTZER: Your Honor, that's incorrect, that portion of the decision did stand.

MS. LORD: I don't believe that's true.

THE COURT: Whatever is in the evidence we can't go outside the evidence. The jury will remember what the testimony under oath was on that point, that's what the evidence is. Objection overruled.

[1437] MS. LORD: Also, in 1983 Judge Aguilar gave what the chief prosecution considered to be a lenient sentence in a criminal case. The chief prosecution objected, please read that letter, please. See what the chief prosecutor had to say and keep in mind that this was a sentencing. The prosecutor was an advocate in the context of that case. He had a position about what the appropriate sentence was and he expressed it.

On June 22nd Judge Aguilar tells FBI agents that it's all right for Judge Aguilar to write letters of recommendation for people who are going to be sentenced. Now, why can't the U.S. Attorney do the same thing?

But, at the same time that these two things are supposedly happening, the FBI is investigating a case where individuals made death threats against Judge Aguilar and the U.S. Attorney's office was prosecuting it.

But Judge Aguilar wants you to believe that in 1988, five years after the two incidents that he described when he saw someone outside his house, he leaped to the conclusion that the FBI was out to get him. And that all, after that rushed through his mind in the one minute between the time that Abie Chapman drove off and the time that call was placed to Steve Aguilar. He told Abie Chapman

that the FBI was following him to warn Abie Chapman.

Now, consider the disclosure of the electronic surveillance information and remember again that Judge Aguilar [1438] says, "Well, I told that to Steve Aguilar, but it wasn't true." You know that Judge Peckham told him. He says, "Well, I told Steve Aguilar about the wiretap because he wasn't taking me seriously about the FBI surveillance."

You heard Steve Aguilar testify. You know that Steve Aguilar came to his uncle's house immediately when he was asked. Ladies and gentlemen, Steve Aguilar took that information seriously. Judge Aguilar divulged both of those facts to Steve Aguilar so that Steve would convey them to Abie Chapman.

And once again ask yourselves, did he really think that when he said those things to Steve Aguilar that Steve Aguilar would not pass those facts onto Abie Chapman? Think it through.

What does he do next? Approximately an hour later he calls Steve Aguilar again, he calls him himself, asks Steve Aguilar to come over and they discuss whether Steve Aguilar delivered the message. And, as we know, Steve Aguilar did.

\* \* \* \* \*

[1492] Now, a couple words about Count 6, that's the next wiretap warning, February the 6th of 1988. Now, Mr. Meltzer told you that this additional warning was silly and he gave you some pretty silly examples, but Judge Aguilar has testified on this stand that he's familiar with wiretaps and wiretaps expire after 30 days, as you know they may or may not be extended.

A simple answer is on February 6th, which is months after August, you know, he saw an FBI surveillance of Abie Chapman outside his house and he put two and two



together and concluded that the electronic surveillance had been extended and that's what this warning was all about.

\* \* \* \* \*

[1514] With respect to the second item, Item B, the second item on your verdict slip, this charges a conspiracy to obstruct justice. And once again, members of the jury, the defendant is not charged in this count with obstructing justice, he's charged with conspiring with others to obstruct justice.

In order to understand that let me just briefly review [1515] with you the elements of obstruction of justice. This will come up in some remaining counts of the indictment because in Count 7 and 8 the defendant is charged with obstruction not conspiracy, but obstructing justice.

This second object of the conspiracy charges the defendant with the conspiracy to endeavor to corruptly influence, or obstruct, or impede a judicial proceeding in violation of Title 18, section 1503.

Now, Title 18 at 1503 states: "That whoever corruptly endeavors to influence, obstruct or impede the due administration of justice shall be guilty of an offense against the United States."

The elements, therefore, that have to be proven, that is the proof must satisfy you beyond a reasonable doubt unanimously first, that there was a pending judicial proceeding known to the defendant. And the conspiracy charged that pending judicial proceeding is a 2255 proceeding, that's the one we've heard before Judge Weigel. I instruct you as a matter of law that a 2255 petition that is filed in court is a judicial proceeding.

The second element that must be proven is that the defendant endeavored to influence or impede the due administration of justice. Keep in mind this is a conspiracy

charged. He's only charged with agreeing with others there be an endeavor made. Not, in fact, an endeavor was made with Judge [1517] Weigel.

This second element of an alleged conspiracy to endeavor to influence a judicial proceeding, an endeavor means any effort or any act to accomplish the purpose that this statute was designed to prevent and, that is, the due administration of justice.

The term due administration of justice means that the law expects and requires a free and fair opportunity for every judicial proceeding to go forward without outside corrupting influences.

The third element of obstruction of justice is that the endeavor, if one was made, must be done corruptly. An act is done corruptly if it's done voluntarily and intentionally to bring about either an unlawful result or a lawful result by some unlawful method, with a hope or expectation of either financial gain or other benefit to oneself or a benefit of another person. And the statute, members of the jury, as stated it's intended to reach every endeavor that would have that as its purpose if it's done corruptly.

Now, in this Count 1, that is this B Part of Count 1, the court will state to correctly endeavor to obstruct justice on the verdict slip, it's not necessary that the proof show that there was ever any actual endeavor to obstruct justice with respect to the matter before Judge Weigel. The defendant's only charged with a conspiracy with others to endeavor to obstruct [1518] justice in that regard.

\* \* \* \* \*

[1521] THE COURT: All right. Members of the jury, I want to now turn to the remaining counts of the indictment. The next count you'll be picking up, as shown in your verdict slip, is Count 4. You'll see when you have the

indictment that's, as I mentioned, conspiracy takes up a lot of the pages, 10 pages and Count 4 and Count 6 are on page 11. Count 4 is brief, let me read what Count 4 says. You'll have it in the jury room.

In or about, I mentioned in or about means on or about, it's necessary to prove that the event took place at or about that time in order for the burden of prove to be satisfied, it says:

In or about August 1987, the exact date being unknown to the grand jury, in the Northern District of California, the defendant, Robert P. Aguilar, while a United States District Judge having knowledge that a federal investigative officer had applied to the United States District Court for authorization to intercept wire communications of Abe Chapman, and in order to obstruct, impede or prevent such interception gave notice and attempted to give notice of a possible interception to Abe Chapman, in violation of Title 18, United States Code Section Two Thousand Two Hundred Thirty Two, 2232 of Paragraph C.

Now, the statute involved here appears that at Title 18, Section 2232(c)(c) reads in pertinent part as follows:

"That whoever having knowledge that a federal investigative or law enforcement officer has been authorized or [1522] has applied for an authorization to intercept a wire, oral or electronic communication, in order to obstruct, impede or prevent such interception, gives notice or attempts to give notice of a possible interception to any persons, shall be guilty of an offense against the United States."

Now, that, too, members of the jury, has a number of elements that must be proven before the defendant can be found guilty. The first is that the defendant had knowledge that authorizations to conduct electronic surveillance of Abe Chapman had been applied for.

Knowledge of a fact, members of the jury, means that you're satisfied from the evidence that he knew it or knowledge of the existence of a particular circumstance may be satisfied by proof that the defendant was aware of a high probability of the existence of that circumstance. Unless you find from the evidence that the defendant actually believed that the circumstance did not exist.

So in order to determine whether or not the evidence has satisfied the element that the defendant had knowledge of an alleged—and that, of course, must be proven there was an application for electronic surveillance of Abe Chapman's conversations, you should determine from the evidence whether you believe that an application had been applied for and whether or not you believe that defendant was aware, actually knew or was aware of a high probability of that is existed. Or to the [1523] contrary whether you find it was his belief, in fact, that the application had not been applied for.

This second element of this violation in this section of the code is that, which must be proven, is that the defendant gave notice or attempted to give notice of that fact. That means, the application for an interception to Abe Chapman who was an interceptee in the application.

Well, in this regard, members of the jury, consider the evidence and you determine whether or not the evidence satisfies you, as I've stated, as must, that in order to convict, that is, it must be proven beyond a reasonable doubt, whether or not you believe the evidence shows that if the defendant knew that there was an application for an interception of Abe Chapman's conversations; whether or not the defendant gave notice. And to give notice simply means to actually give notice or to cause another to give notice to Abe Chapman.

This statute also in the indictment makes reference to it being a violation if there's an attempt to give notice. To at-



tempt an offense means willfully to take some substantial step in an effort to bring about or accomplish something that the law forbids to be done.

Now, a person may be guilty of an attempt for deliberately doing some act to try to give notice to Mr. Chapman, even though Mr. Chapman may never actually have received the notice of the possible interception. An attempt is [1524] more than mere planning or preparation, the evidence must show that the defendant took a substantial step to indicate an intent to commit the crime.

Now, the third element, members of the jury, is that the defendant had to act with a specific intent to obstruct, impede or prevent possible interceptions of conversations of the interceptee.

If the other elements are satisfied then you should take up the question of whether or not you believe it was the intent, by giving notice or attempting to give notice, to in some way impede or interfere with the interceptions that have been applied for.

Consider all the evidence and determine what the intent was if that notice or attempted notice was given. All the elements are satisfied it is not necessary that at the time the disclosures were made the interception was still going on. In other words, not necessary there there was a wire interception that was going on at the time the disclosure is made. What is required to be proved, that an application was made and that notice was given or attempted to be given in an effort to obstruct, impede or prevent the possible interceptions.

It's also not necessary that it be proven that Abe Chapman's own telephone was intercepted. It's the conversations that are intercepted and not the telephone that the statute reaches.

[1525] The statute provides again in pertinent part: "Whoever has knowledge of the federal investigative law

enforcement officer has been authorized or applied for authorization to intercept a wire oral or electronic communication in order to obstruct, impede or prevent such interception gives notice or attempts to give notice of the possible interception to any person, shall shall guilty of this offense."

In this instance it's charged that the defendant gave notice and attempted to give notice to Abe Chapman at or about this time of an application for wire interception.

The elements are the same, members of the jury, with respect to Count 6, Count 6 alleges in pertinent part as follows:

That on or about February 6th 1988, you recall Count 4 made reference to in or about August 1987, Count 6 says on or about February 6 1988 in the Northern District of California, United States District Judge having knowledge of a Federal Investigative Officer had applied to the United States District Court for the Northern District of California for authorization to intercept wire communication of Abe Chapman and in order to obstruct, impede or prevent such interception gave notice or attempted to give notice of a possible interception to Abe Chapman.

So the elements are the same. That is, the elements that I mentioned before must be satisfied that the defendant had [1526] knowledge that the authorization to conduct electronic surveillance of Abe Chapman had been applied for. The defendant gave notice or attempted to give notice to that fact to Abe Chapman who was an interceptee and the defendant acted with a specific intent to obstruct and impede or prevent possible interception of conversations.

Even though it may have been the same application in the evidence, if the notice was given on different dates would be a separate violation. It's not necessary that a telephone be tapped, it's necessary that conversations be intercepted for the statute to be satisfied.



And in Count 6 as in Count 4 it's not necessary that at the time you may find a disclosure was made, it's not necessary that the interception be going on at that time. What is necessary that the evidence show an application had been made and the defendant knew of it and gave notice for the purpose I mentioned.

The evidence doesn't satisfy beyond a reasonable doubt as to those elements the defendant cannot be found guilty and should be found not guilty.

Count 7 and 8, members of the jury, have to do with C and D on your verdict slip. I paraphrased Count 7 as corruptly endeavor to obstruct justice as to Edward Solomon, 8 corruptly obstruct justice said statements to the FBI.

You'll remember, members of the jury, this is based [1527] upon the evidence that's been offered here in some of these tapes you've been listening to primarily. You heard those tapes, you can listen to them again. They've been addressed to you by counsel essentially, but let me just read pertinent parts of Count 7.

Same statutes involved in Count 7 and Count 8 and that is Title 18, Section 1503. You may remember when I spoke to you about the conspiracy, I spoke to you about an alleged conspiracy in Paragraph B of the indictment of Count 1, conspiracy to obstruct justice, and that had to do with—you'll read the indictment, had to do with the alleged attempt to influence Judge Weigel. That's alleged to be an obstruction of justice and Count 1 charges a conspiracy to do that.

This is the same statute, has nothing to do with Judge Weigel, the obstruction here in Count 7, I'm going to now read it to you, the same statute and be the same elements and I'll go over the same elements. For example, must be a judicial proceeding, I'll go over that.

Count 7 says: At all times relevant to this count of the indictment the defendant was aware that a federal grand

jury in the Northern District of California was investigating possible violation of federal law by Robert P. Aguilar, Abe Chapman, Michael Rudy Tham and others.

On or about May 26th 1988 defendant Robert P. Aguilar did corruptly endeavor to influence, obstruct and impede the [1528] aforementioned grand jury investigation and thus the administration of—due administration of justice in the Northern District of California by advising Edward Solomon to lie about Solomon's relationship with the defendant Robert P. Aguilar and about defendant Robert P. Aguilar's activity on behalf of Michael Rudy Tham. Now, in violation of Title 18, Section 1503.

Now, again, the obstruction of justice statute that I spoke of a little while ago, I'll cover it again, states in pertinent part as follows:

"Whoever corruptly influence, obstructs or impedes the due administration of justice, or endeavors to influence obstruct or impede the due administration of justice, shall be guilty of an offense against the United States."

These two counts do not charge a conspiracy to obstruct justice. These two counts charge obstruction of justice.

Now, the statute has a number of elements that I mentioned before and I'll go over them again. The first element is that the proof must show, as I've described to you, an alleged endeavor to influence a judicial proceeding which was known to the defendant. So the first thing you have to determine is whether there was a grand jury proceeding ongoing, consider the evidence in that regard.

And you have to determine whether or not the defendant on or about this day knew that a grand jury proceeding was [1529] ongoing. And I remind you in determining whether the defendant had knowledge you should consider the evidence and decide whether or not you believe in fact he knew from just your perception of that evidence, or whether or not you believe you're satisfied

that there's proof that the defendant was aware of a high probability of the existence of that circumstance. Unless you conclude that the defendant actually believed that, in this case the grand jury did not, was not in being at that time.

So in determining there was a judicial proceeding, consider the evidence you've heard from the witnesses and secondly determine whether or not it was investigating possible violations of law by the defendant and determine whether you believe the defendant knew, as I've outlined to you, there must be knowledge of the existence of a judicial proceeding before a defendant can be convicted of this offense.

Now, the next element of obstruction of justice is that the evidence must show that there was an endeavor to influence the due administration of justice. Again, an endeavor means any effort or act to accomplish the purpose that the statute was designed to prevent.

Keep in mind it's not necessary even in this statute of obstruction of justice that the proof show that justice was actually obstructed, but must be shown is an endeavor to do so, an endeavor to obstruct justice.

[1530] Now, what we mean again by interfering or obstructing the due administration of justice, is the notion that due administration of justice contemplates and expects a free and fair opportunity for every judicial proceeding to go forward without outside corrupting influences.

Finally, so you should determine whether or not the proceeding existed, whether the defendant knew of it and whether there was any endeavor by the defendant as I defined that, to influence or impede the administration of justice as it relates to the allegations concerning Mr. Solomon.

And the final element is the defendant acted corruptly, and you may recall I told you for this statute to be satisfied by the proof, the act must be corruptly done. Which simply means it must be done voluntarily, must be done intentionally to bring about either an unlawful result or a lawful result by unlawful means, with the hope of or expectation of either financial gain or other benefit to one's self or benefit to another.

So consider the evidence, members of the jury, in regard to this Count 7, to determine whether the defendant endeavored corruptly to obstruct or impede the due administration of justice by trying to get Mr. Solomon to testify untruthfully about either Mr. Solomon's relationship with the defendant and/or about defendant's activity on behalf of Michael Rudy Tham.

[1531] The proof does not have to show that both of those efforts were undertaken or took place. That is, it's not necessary that the government prove the defendant advised Solomon to lie twice. The government satisfies its burden of proof that the defendant advised Solomon to lie if it's proved beyond a reasonable doubt that the defendant advised Solomon to lie about either matter and advice was made for the purpose of obstructing the grand jury investigation.

So that count makes reference to two things: Mr. Solomon's relationship to Judge Aguilar and Judge Aguilar's alleged activity on behalf of Rudy Tham. So determine whether or not the evidence shows there was an endeavor with regard to either of those matters that can be said to violate that statute.

Count 8 is the same statute the same elements involved that count provides in pertinent part: On or about June 22, 1988, while said defendant was aware that a federal grand jury in the Northern District of California was investigating the possible violations of federal law by Robert



P. Aguilar, Abe Chapman and Michael Rudy Tham and others; and that on or about June 22, 1988 while U.S. District Judge, defendant, did corruptly endeavor to influence, obstruct and impede the aforementioned grand jury investigation, and thus the due administration of justice, by making false and misleading statements to special agents of the Federal Bureau of [1532] Investigation concerning defendant Aguilar's assistance to Michael Rudy Tham and concerning the defendant's knowledge and disclosure of information concerning court ordered electronic surveillance of Abe Chapman.

The elements are the same, members of the jury. Again, a grand jury proceeding is a judicial proceeding. You should first determine whether one existed at or about that time. You should then determine whether or not the defendant knew of it according to the standard that I mentioned, that he had knowledge that it was ongoing and know about it, and then you should determine whether any endeavor was made to interfere with or obstruct or impede that investigation and this is centered upon that meeting that day he had in Hawaii.

So consider all the evidence associated with that and determine whether the elements have been satisfied, including whether if they were satisfied an endeavor was made by the defendant in regard to existing grand jury investigation, whether or not it was corruptly done as I've defined the word corruptly.

Now, keep in mind, members of the jury, the agents of the Federal Bureau of Investigation they do not work for the grand jury, they're not employees of the grand jury, they're a separate agency and they investigate. You've heard—we had a witness, Mrs. Ellington I believe, describe a little bit about how the grand jury functions. [1533] The thrust of this count is not that he lied to the FBI because that's not a violation of a particular law we're

concerned with here. We're concerned with whether or not, whatever was done whether FBI people or not, whether or not he as shown by the evidence by the standard I've mentioned to have known that a grand jury was ongoing and that he endeavored in those interviews, whether the FBI people or not, to in some way impede, interfere with or obstruct the functioning of that grand jury.

You'll have to determine whether or not you believe that was his intent and whether the purpose there was corrupt. That is, the very purpose to either bring about an unlawful result or lawful result by unlawful method with a hope of expectation of some financial gain or other benefit to one's self or to another.

\* \* \* \* \*

[1544] MR. LUSKIN: Finally, your honor, as to Counts 4 and 6, we would ask that your honor instruct that the knowledge of the purpose of 2332(c) must come from confidential information, information derived from judges employment.

Mr. Keefer thought the knowledge came from the fact it was physical events and put two and two together. We would submit that's knowledge that the statute hasn't—mind you rather as a participant in the proceeding—

THE COURT: That's refused. Anything else?



UNITED STATES COURT OF APPEALS  
FOR THE NINTH CIRCUIT

Case No. 90-10597, 91-10024

UNITED STATES OF AMERICA,  
PLAINTIFF-APPELLEE, CROSS-APPELLANT

v.

ROBERT P. AGUILAR,  
DEFENDANT-APPELLANT, CROSS-APPELLEE

On Appeal From the United States District Court  
For The Northern District of California  
Docket No. CR 89-0365-LCB

BRIEF FOR THE UNITED STATES OF AMERICA

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STATEMENT OF FACTS

1. *The Electronic Surveillance*

In 1986 and 1987, as part of a nationwide investigation of health care provider fraud, the San Francisco FBI was investigating, among other, a convicted former Teamster officer, Michael Rudy Tham, and a mobster then under indictment, Abe Chapman. RT 7:982-83; 1007-08. On April 20, 1987, the Government applied to then-Chief United States District Judge for the Northern District of California Robert Peckham for authorization to conduct electronic surveillance of Tham's business telephones, and named Chapman as an interceptee of the wiretap. GX

18A-C; RT 7:917-18. The wiretap expired on May 20, 1987, and was not immediately renewed.

Beginning on July 15, 1987, Judge Peckham signed a series of orders postponing the service of inventories and maintaining the secrecy of the wiretap through April 25, 1989. GX 20A-N; RT 7:918-19. By July 1987, the FBI had prepared an affidavit, and intended to seek authorization for a follow-up wiretap on all of Tham's phones, again including Chapman as a named interceptee. GX 25; RT 7:1009.

Against this background, on July 9, 1987, California Department of Justice state agents surveilling Chapman in connection with a separate investigation observed him enter the Federal Building in San Jose. RT 4:738. The state agents asked the FBI for assistance, and the state and federal agents together saw Chapman leave the building with Judge Aguilar and another man. RT 4:738-39; 7:964-65.

On August 5, 1987, concerned that Chapman's appearance with Judge Aguilar might be a threat to the security of the court, the Special Agent in Charge of the San Francisco FBI Office, Richard Held, informed Judge Peckham that Abe Chapman had been seen meeting with Judge Aguilar. RT 7:920, 986, 993, 995, 1010-11. On August 9, 1987, in a gentle effort to warn Judge Aguilar about Chapman's character and to prevent any appearance of impropriety that might reflect on the court. Judge Peckham told Judge Aguilar that Chapman's name had come up in a wiretap application, that Judge Peckham had once prosecuted Chapman in a drug case, and that Chapman was apparently still engaged in criminal activity. RT 7:921, 942.

On September 10, 1987, the Government re-applied for authorization to conduct electronic surveillance of Tham's telephones, and named Chapman as an interceptee. The

surveillance terminated on October 12, 1987. On October 21, 1987, the Government applied to extend the authorization to wiretap Tham's telephones, and the surveillance was resumed on that date. Thereafter, the electronic surveillance of Tham's telephones was continuously extended through May 8, 1988. GX 1B.

In addition to the electronic surveillance of Tham's telephones, on December 12, 1987, the Government applied for and obtained authorization to conduct microphone surveillance of Tham's office, again naming Chapman as an interceptee. This surveillance was also regularly extended through May 8, 1988. GX 1B.

On January 13, 1988, the Government applied for authorization to conduct electronic surveillance of Judge Aguilar's telephones and those of Tham's attorney, Edward Solomon. Chapman continued to be named as an interceptee. Surveillance of Solomon's phones ended in April 1988, while the surveillance of Judge Aguilar's phones was extended through May 8, 1988. GX 1B.

## *2. Judge Arguilar Warns Chapman of the Wiretap*

On February 6, 1988, FBI Special Agent Thomas Purcell observed Chapman visiting Judge Aguilar at the judge's home. RT 5:801-03. When Judge Aguilar came out with Chapman, he observed Agent Purcell conducting the surveillance, and watched closely until the agent left. RT 5:803.

As soon as he entered his house, Judge Aguilar telephoned his nephew Steve Aguilar, and asked him to come to the house immediately because the judge needed to get a message to Chapman. N-504. When Steve Aguilar arrived, Judge Aguilar told him that Chapman was being followed by an FBI agent, and that he had overheard as a fluke at work that Chapman was being wiretapped. RT

5:825. At his uncle's direction, Steve Aguilar reported to Chapman that Judge Aguilar had said that Chapman was being followed by an FBI agent and that he was being wiretapped. RT 5:825-26. Shortly after Steve Aguilar returned to his own house, Judge Aguilar called him again, but said it would be better if they spoke at the judge's house. N-228. Returning to the judge's house, Steve Aguilar told his uncle that he had relayed the information to Chapman. RT 5:827-28.

**Supreme Court of the United States**

No. 94-270

UNITED STATES, PETITIONER

v.

ROBERT P. AGUILAR

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ORDER ALLOWING CERTIORARI. Filed November  
28, 1994.

The petition herein for a writ of certiorari to the United  
States Court of Appeals for the Ninth Circuit is granted.

November 28, 1994